

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

STEPHEN McCOLLUM, and SANDRA §
 McCOLLUM, individually, and STEPHANIE §
 KINGREY, individually and as independent §
 administrator of the Estate of LARRY GENE §
 McCOLLUM, §

PLAINTIFFS

V.

CIVIL ACTION NO.

4:14-cv-3253

JURY DEMAND

BRAD LIVINGSTON, JEFF PRINGLE, §
RICHARD CLARK, KAREN TATE, §
SANDREA SANDERS, ROBERT EASON, the §
UNIVERSITY OF TEXAS MEDICAL §
BRANCH and the TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE. §

DEFENDANTS

Plaintiffs' Consolidated Summary Judgment Response Appendix

EXHIBIT 292

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM, §
STEPHANIE KINGREY, and §
SANDRA McCOLLUM, §
individually and as §
heirs at law to the §
Estate of LARRY GENE §
McCOLLUM, §
Plaintiffs, §

VS §

BRAD LIVINGSTON, JEFF §
PRINGLE, and the TEXAS §
DEPARTMENT OF CRIMINAL §
JUSTICE, §
Defendants. §

CIVIL ACTION NO.
3:12-cv-02037

ORAL AND VIDEOTAPED DEPOSITION OF

SANDREA YVONNE SANDERS

FEBRUARY 8, 2013

ORAL AND VIDEOTAPED DEPOSITION OF
SANDREA YVONNE SANDERS, produced as a witness at the
instance of the PLAINTIFFS, and duly sworn, was taken in
the above-styled and numbered cause on the 8th day of
February, 2013, from 10:08 a.m. to 1:35 p.m., before
TINA TERRELL BURNEY, CSR in and for the State of Texas,
reported by machine shorthand, at the Hutchins State
Jail, 1500 E. Langdon Road, Dallas, Texas 75241,
pursuant to the Federal Rules of Civil Procedure.

Stephen McCollum, et al.
Brad Livingston, et al.

Sandrea Yvonne Sanders
February 08, 2013

A P P E A R A N C E S

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1 A. Yes.

2 Q. And third -- when would you come on on third
3 shift?

4 A. Actually when third shift started, the
5 officers are supposed to be here at 9:45. I personally
6 arrived at 6:00 in the evening.

7 Q. And when would you go home?

8 A. At 6:00 in the morning.

9 Q. So you were working about 6:45 p.m. to 6:00
10 a.m.?

11 A. Yes.

12 Q. Okay. When you started working at TDCJ, that
13 would have been around 2000?

14 A. 2001.

15 Q. 2001. Did you receive some training before
16 you started at TDCJ?

17 A. Yes, sir.

18 Q. Describe that for me.

19 A. It's preservice training, and basically what
20 happens in preservice is that they're basically teaching
21 us policy and procedure on a general level, you know,
22 just pulling the policy and showing us this is what
23 happens. And then, you know, they let us know when you
24 get to a unit, you have to apply it according to your
25 own unit.

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1 to handle, you know, or something that would work itself
2 out, then, yes, we would get with medical.

3 Q. What would you mean -- what do you mean, if
4 it's something that would work itself out?

5 A. We have offenders here who are -- who have
6 seizures, and that doesn't always require me to call
7 medical. Sometimes an offender has a seizure. As long
8 as he's in a secure area, he's safe -- let's say he's in
9 his bunk, you know, and we're alerted that we have this
10 offender here having a seizure, we would go down to the
11 building and monitor what was going on.

12 Once he finishes seizing, we're watching
13 to see if he's breathing. A lot of times, you know,
14 people don't respond after -- after having a seizure,
15 and we would leave an officer there with that offender
16 so that when they came out of, you know, the aftermath
17 of the seizure, then we can talk with them and
18 everything. If there was another issue on top of it,
19 then we would call medical.

20 Q. What do you mean "if there was another issue
21 on top of it"?

22 A. Say, he didn't -- he wasn't breathing.

23 Q. Or he didn't respond at some point?

24 A. Right.

25 Q. Okay. And when you found somebody having a

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1 seizure, would you immediately call medical, or would
2 you wait for the issue to resolve itself first?

3 A. We dealt with it on such a large scale basis,
4 that we would wait for it to resolve itself.

5 Q. How long would you wait?

6 A. Usually seizures would generally last a few
7 minutes. If it looked like it was going beyond that, or
8 if they hit their head on a bunk or something and
9 started to bleed out or something like that, then we
10 would call, you know, medical and let them know.

11 We will call anyway in a situation like
12 that, but we wouldn't necessarily have anything else to
13 do. We were calling medical to notify them that, hey,
14 this offender had this issue. You know, he needs to be
15 given what's called a lay-in to go see medical in the
16 morning, basically an appointment to go see medical in
17 the morning.

18 Q. And you don't have any medical training,
19 right?

20 A. No.

21 Q. Do you consider a seizure to be a serious
22 medical problem?

23 A. I can't really answer that question.

24 Q. If somebody in your family had a seizure,
25 would you get them to a doctor?

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1 Q. In the 12 years that you've worked here at the
2 Hutchins Unit, was there ever medical staff here on the
3 third shift?

4 A. There was a point where -- it wouldn't -- no,
5 it wouldn't have been third shift, because they left at
6 10:00 o'clock, so, no.

7 Q. Okay. So as far as you know, in the 12 years
8 you've worked here at the Hutchins Unit, there's never
9 been medical staff after 10:00 o'clock?

10 A. As far as I know, there's never been medical
11 staff after 10:00.

12 Q. Okay. When did it change from there being no
13 medical staff after 10:00 p.m. to no medical staff
14 after -- well, let's take a step back.

15 When does medical staff leave the
16 Hutchins Unit today?

17 A. They leave at 6:00.

18 Q. When did that change happen that they leave at
19 6:00 instead of having somebody here until 10:00?

20 A. I don't remember.

21 Q. Was it more than five years ago?

22 A. I don't remember.

23 Q. Okay. You don't remember if you were a
24 correctional officer or a sergeant when that happened?

25 A. The only reason I even remember that they used

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1 situation like this but the offender was not working?

2 A. Was not working?

3 Q. Uh-huh.

4 A. Again, it would depend. I mean, if this was a
5 rec yard situation, they were outside playing basketball
6 or something like that, or if they -- it would just
7 really depend, because a lot of times, it's not that we
8 know anything one way or the other. We don't have any
9 access to these offenders' information, so I'm assuming
10 that this is the problem.

11 Q. If a prisoner was on the heat list, and they
12 started -- they collapsed or were having convulsions,
13 would then you follow those policies --

14 A. Yes --

15 Q. -- assuming that it's the middle of the
16 summer?

17 A. -- because I would assume that.

18 Q. Okay. So it sounds like that information on
19 the heat list would have been important to you in making
20 a decision about what to do in a situation where you
21 find a prisoner having convulsions.

22 A. I wouldn't say that it was important as much
23 as it was a better guideline.

24 Q. If a prisoner was on the heat list and they
25 were found having convulsions, are there any

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1 Q. Yeah.

2 A. It would depend on the situation. You know,
3 it would -- I would have to see, again, just kind of a
4 combination of these symptoms, you know, and that might
5 trigger, okay, well, this might be heat related. In the
6 sun, that would almost be a given, but in -- not in the
7 sun, I don't know that that would be my first thought.

8 Q. Okay. So the sun is a factor?

9 A. Right.

10 Q. Okay. Now, you see here under where it says
11 "Heat Stroke" where it says "Treatment"? Do you see
12 that?

13 A. Yes.

14 Q. There's -- among other things, there's a
15 little picture of an ambulance. Do you see that?

16 A. Yes.

17 Q. Does that imply to you that need to have an
18 ambulance for someone with -- who's had a heat stroke?

19 A. That implies that, yes.

20 Q. If you knew someone had suffered heat stroke,
21 is there any circumstances where you wouldn't call an
22 ambulance?

23 A. No.

24 Q. And here it says on the top of the third
25 column that you should always transfer heat stroke

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1 victims to a medical facility. Do you see that?

2 A. I do see that.

3 Q. Do you agree with that statement?

4 A. Yes.

5 Q. That's what you'd do in that situation?

6 A. If I knew for a fact that this was a heat
7 stroke victim, yes.

8 Q. Okay. When you received this document, this
9 training circular, what form did you receive it in?

10 A. What do you mean?

11 Q. Well, let's -- do you remember who gave it to
12 you?

13 A. These particular training circulars are given
14 to us by a risk management officer.

15 Q. Okay. Is that Officer Story?

16 A. Yes.

17 Q. And what would have happened when he gave it
18 to you?

19 A. They're given to us so that we can do what's
20 called signature -- signature block training where we
21 train over this in a turnout situation, or for staff
22 that doesn't go to turnout, you kind of pull them in,
23 train over this, and once they've been trained, and it's
24 up to that staff member to decide if they fully
25 understand what this says, then they sign for it.

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1 Q. Do you see this document's been marked Exhibit
2 17?

3 A. Okay.

4 Q. Is this a -- you just described a -- you
5 called it a block signature?

6 A. Signature block training, yes.

7 Q. Signature block training. Is that a document
8 that would be produced after signature block training
9 like you just described?

10 A. Yes. Once that officer felt that they
11 understood this, then they are supposed to sign.

12 Q. Okay. We can go back to the training
13 circular. When you received -- so you would receive the
14 training circular from Officer Story --

15 A. Uh-huh.

16 Q. -- and it was your responsibility to make sure
17 the officers at turnout were trained on it, correct?

18 A. Yes.

19 Q. Would somebody train you on the training
20 circular, like a Train the Trainer?

21 A. No.

22 Q. You would just receive it, read it, and then
23 make sure it was read to the officers?

24 A. Yes. We would go through it, you know, make
25 sure that we had a general feeling of it, and then give

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1 that same information to the officers.

2 Q. And then would it be your responsibility to
3 make sure that the officers were conducting their duties
4 in accordance with what was in the training circular?

5 A. That goes back to that same question. My
6 responsibility is to train the officer on what they're
7 supposed to know, to follow up on whether or not those
8 processes are being followed, and if they're not, then I
9 need to bring you back in for retraining.

10 Q. Okay. A few minutes ago we talked about a
11 heat card.

12 A. Yes.

13 Q. Is that the heat card, Exhibit 10?

14 A. Yes.

15 Q. Okay. So you have a little copy of that in
16 your wallet?

17 A. Well, I keep it on my uniform.

18 Q. Okay. It's something that you carry with you
19 when you're working?

20 A. Yes.

21 Q. Do you see on here it says, "Heat stroke
22 emergency, death is imminent"?

23 A. Yes.

24 Q. And you see that it lists some symptoms there?

25 A. Yes.

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1 Q. Okay. And so you would have been familiar
2 with this card in July of 2011?

3 A. Yes.

4 Q. Do you see that -- I'm not sure if it's the
5 first page or the second page, it says "Treatment and
6 Prevention"?

7 A. Yes.

8 Q. It says "Treatment of Heat Illness" and has
9 some things you're supposed to do, like move the person
10 out of direct sunlight into an air-conditioned
11 environment?

12 A. Uh-huh.

13 Q. That's something you would have been trained
14 to do when someone was having a heat emergency?

15 A. Yes, but it also says "if possible."

16 Q. Okay. When would that not be possible?

17 A. If there were -- say, for instance, this is --
18 I have to say it should be possible at all times, but I
19 can't think of a reason why it wouldn't be possible or
20 why it would be impossible.

21 Q. Okay. So it says that you need to get medical
22 attention ASAP. That means medical attention as soon as
23 possible?

24 A. Correct.

25 Q. And it lists some people that are at higher

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1 risk for heat illness?

2 A. Uh-huh.

3 Q. It says that there'd be higher risk if there
4 were high temperature and humidity conditions?

5 A. Yes.

6 Q. Okay. And that's all things that you were
7 trained on?

8 A. Yes.

9 Q. Okay. So based on this -- the training
10 information in this card and the training circular, you
11 were aware that a heat stroke could cause death in July
12 of 2011, right?

13 A. Yes.

14 Q. Okay. Do you see this document labeled
15 Exhibit 18, Lieutenant?

16 A. Okay.

17 Q. Have you ever seen a document like that
18 before?

19 A. I have.

20 Q. When have you seen that before?

21 A. These are kept in our line control building,
22 and I would see them pretty much every day.

23 Q. When -- when would -- would you see those as a
24 lieutenant or as a sergeant or...

25 A. As a sergeant or lieutenant.

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1 A. One of us, one of -- either a sergeant or a
2 lieutenant would assign an officer to do it.

3 Q. In July of 2011 on third shift, do you
4 remember assigning officers to take the temperature
5 indoors?

6 A. I can't remember if we did or did not at that
7 point.

8 Q. Okay. When you do take the temperature
9 indoors, do you take the temperature indoors in all of
10 the dorms or all parts of the prison or just parts
11 without air conditioning? How does that work?

12 A. We were taking it in any of the housing areas,
13 in all of the housing areas.

14 Q. So that would be -- include the housing areas
15 where there is air conditioning; is that right?

16 A. Yes.

17 Q. And just to establish where that is, the K
18 Building is administrative segregation on the Hutchins
19 Unit; is that right?

20 A. We do have a section of K Building that's
21 administrative segregation.

22 Q. Okay. And the administrative segregation
23 section of K Building is air conditioned; is that right?

24 A. To my knowledge, it is.

25 Q. Is the rest of K Building air conditioned?

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1 come from --

2 Q. Let me -- let me rephrase.

3 A. Oh.

4 Q. If it's a prisoner who's being processed in
5 who's new to TDCJ, not somebody who's been transferred
6 here for some other reason, then do they have immediate
7 access to commissary?

8 A. No.

9 Q. For a prisoner like who's just come into TDCJ,
10 what do they need to go through before they can go to
11 commissary?

12 A. They have to be processed. They have to go
13 through medical and intake processing first.

14 Q. And about how long did that take in July of
15 2011?

16 A. I -- I can't really say, because it depends on
17 how fast medical and intake are going.

18 Q. Okay. But you don't have any memory of how
19 long that was taking?

20 A. I mean, it takes three to four weeks
21 generally.

22 Q. And before a prisoner can go to commissary,
23 they're issued some property by TDCJ like a uniform; is
24 that right?

25 A. Yes.

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1 Q. What else are they issued by the state?

2 A. I believe they get like a toothbrush and a
3 razor and some toilet paper. That's pretty much it.

4 Q. Do they get a cup?

5 A. No.

6 Q. Do they get a fan?

7 A. No.

8 Q. Are personal fans ever issued to prisoners at
9 the Hutchins Unit?

10 A. No.

11 Q. Okay. I just want to clarify something we've
12 kind of already talked about. In the C7 dorm, there's
13 no air conditioning, correct?

14 A. Correct.

15 Q. Okay. And there's no air conditioning in most
16 of the dorms --

17 A. There's --

18 Q. -- in any of the dorms?

19 A. In general population, no.

20 Q. Okay. And you know that because you work in
21 those areas?

22 A. Correct.

23 Q. You'd agree with me that it gets pretty hot in
24 those areas, right?

25 A. It does.

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1 Q. Okay. Do you hear staff complain about the
2 heat in the summer?

3 A. Yes.

4 Q. As lieutenant, you probably hear a lot of
5 staff complaints about the heat?

6 A. Uh-huh. This is Texas.

7 Q. Do you ever complain to anyone about the heat
8 in the dorms?

9 A. The heat in the -- I complain about heat
10 generally.

11 Q. I'm sorry, you --

12 A. I complain about heat generally.

13 Q. Okay.

14 A. Outside, inside.

15 Q. Have you ever complained to Warden Pringle
16 about the heat in the dorms?

17 A. No.

18 Q. Okay. I assume the prisoners also complain
19 about the heat in the dorms in the summer.

20 A. They do.

21 Q. That's probably a complaint you've heard all
22 12 years you've worked here at the Hutchins Unit, right?

23 A. Yes, I have.

24 Q. If I told you the temperature inside those
25 dorms was only a few degrees cooler than the temperature

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1 outside, would you agree with that? Does that sound
2 reasonable to you?

3 A. It does.

4 Q. Okay. When you have officers working in the
5 dorms, do they spend the entire shift working in the
6 dorms, or do they rotate -- in the summer when it's hot,
7 or do they rotate to other parts of the prison while
8 they're working?

9 A. Those officers are assigned to that -- for the
10 most part are assigned to that building the entirety of
11 a shift. Now, we do have officers who work outside that
12 if someone who's inside a building has to go home, if
13 they're sick or something like that, or their children
14 have some emergency, then that officer will go to a
15 building.

16 Q. Okay. The officers who work in the building,
17 they can take -- when they have a break, can they take
18 their break in an air conditioned part of the prison?

19 A. If they so choose to, yes.

20 Q. So they could go into the picket and have
21 their lunch in there?

22 A. They couldn't -- they would have to switch out
23 with the officer that was in the picket. That officer
24 would have to come out, or they could go to the ODR or
25 something like that.

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1 Q. Okay. Are there places after-hours on third
2 shift where an officer could go to have lunch or take a
3 break, get out of the heat for a little bit?

4 A. Yes.

5 Q. Okay. You'd agree with me that the air
6 conditioning makes a big difference for how you feel
7 when you're working here in the summer, right?

8 A. It does.

9 Q. Okay. As a lieutenant, have you ever had to
10 tell an officer you're taking too many breaks during the
11 summer in places that are air conditioned?

12 A. Well, they're -- those officers have to be
13 properly relieved in order to take a break, so they're
14 only afforded one 15-minute break per shift. So if an
15 officer takes a break aside from the one that I've sent
16 someone down there to give them, then they're -- they're
17 probably somewhere way out of policy.

18 Q. Okay. Now, an officer -- in the dorms,
19 there's officers who work in the pickets, and there's
20 officers, who they're called rovers, that walk around
21 the dorms to supervise what's going on; is that right?

22 A. Correct.

23 Q. The -- can the rovers ever trade with the
24 officer in the air-conditioned picket to say, hey, you
25 know, Picket Officer, I need some time to take a break

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Brad Livingston, et al.

Sandrea Yvonne Sanders
February 08, 2013

1 from the heat, can we switch for half an hour?

2 A. It has to be approved by a supervisor.

3 Q. Okay. Is that something that you would
4 approve to happen?

5 A. Yes.

6 Q. Is that something that you would approve
7 during the summer?

8 A. Yes.

9 Q. Okay. That's probably something somebody
10 would ask for and you'd approve about every night during
11 the summer, right?

12 A. If they called me, yes.

13 Q. And you'd agree that it remains hot in those
14 dorms even at night?

15 A. Yes.

16 Q. Okay. You can't open the windows in the
17 dorms, right?

18 A. Right. You can't open the windows.

19 Q. And the prisoners don't have a personal fan?

20 A. Right.

21 Q. There's some other TDCJ prisons, to your
22 knowledge, where they can have a personal fan, right?

23 A. To my knowledge, yes.

24 Q. You mentioned that there are plug outlets in
25 the K Building in some of those inmate housing areas.

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1 A. Yes.

2 Q. Officer Clark was one of the officers you were
3 supervising that night; is that right?

4 A. Yes.

5 Q. Does officer Clark do a good job? Is he a
6 good officer?

7 A. Yes, he is.

8 Q. And Sergeant Tate was also one of the
9 officers?

10 A. Yes.

11 Q. Is Sergeant Tate a good sergeant?

12 A. Yes.

13 Q. She follows procedure?

14 A. Yes.

15 Q. She's a --

16 A. She's a stickler.

17 Q. She's a stickler for procedure?

18 A. Yes.

19 Q. Okay. Is Officer Clark a stickler?

20 A. Not in the same way that -- that Sergeant Tate
21 is.

22 Q. Sergeant -- Sergeant Tate is very by the book?

23 A. Very much so.

24 Q. Okay. You'd consider them both to be
25 truthful?

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1 Q. So did you wait for Sergeant Tate to then call
2 you?

3 A. Well, during an ICS situation, we're given
4 updates over the radio. I can tell that in this time
5 frame it was count time, so I was taking count. And so
6 I'm probably asking, you know, give me an update on the
7 situation, you know, every few minutes or so, or she's
8 just going ahead and radioing back whatever the
9 situation is.

10 Q. So you wouldn't -- when did you decide that
11 you needed to go down to the dorm?

12 A. Oh, I really don't remember, but I know that
13 there was some communication between myself and Sergeant
14 Tate that concerned me, so I went on down there to kind
15 of make an assessment myself.

16 Q. What concerned you that she said?

17 A. I -- I don't remember what exactly she said,
18 but I know that there was something that said let me go
19 look at this and see what's going on.

20 Q. Sergeant Tate and officer Clark testified
21 yesterday that they, according to the policy and
22 procedure at the Hutchins Unit, could not make a phone
23 call to 911. Is that your -- that a lieutenant needed
24 to do that. Is that your understanding of the procedure
25 in July 2011?

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1 A. That may have been their understanding, but it
2 would have had to be routed through me, yes.

3 Q. So you would have had to approve someone
4 calling 911?

5 A. Right.

6 Q. Okay. And would that be in any circumstance
7 that 911 needed to be called, no one could call 911
8 without going through you?

9 A. It's not -- this is how it is. If Officer
10 Smith is down on a building, and they see an offender,
11 you know, bleeding from his head or whatever, and he's
12 nonresponsive and everything, he can radio that
13 information to me and say, okay, we need 911. The
14 officer who would actually call 911 that has access to
15 the phones would more than likely hear that and go ahead
16 and just do it, but I've been notified.

17 I don't know if that answers your
18 question.

19 Q. No, that -- in Mr. McCollum's situation, you
20 were the one who decided to call 911; is that right?

21 A. This was -- it was after speaking with the
22 triage nurse and, you know, just kind of getting
23 detailed about what was going on.

24 Q. Could Officer Clark or Sergeant Tate have
25 talked to the triage nurse?

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1 Q. Okay. At this point, did you think this was
2 an emergency situation?

3 A. Yes, I did.

4 Q. When you got to Mr. McCollum's bunk, was he
5 convulsing at that point?

6 A. I don't recall that he was.

7 Q. What do you remember about what you could --
8 what you observed about his condition?

9 A. I remember seeing his feet, and because of --
10 because of my experience with diabetics in my own
11 family, I remember thinking, he's probably diabetic.

12 Q. Why did you think that?

13 A. It was something about toenails and the
14 coloring, that was it, and it was a passing thought.

15 Q. Did anyone tell you that he was diabetic?

16 A. No.

17 Q. Did anyone say -- his cellmate mention that he
18 was diabetic?

19 A. No. I remember -- I just know that I looked
20 at -- that's one of the things that stuck with me, is
21 that I looked at his feet, and I was like, oh, he's
22 probably diabetic, and just kept on.

23 Q. Did you think it was an emergency when you
24 finally saw Mr. McCollum?

25 A. By that time, I understood that there was

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1 something going on beyond the scope of what we could
2 handle, yes.

3 Q. Okay. And is that because he hadn't been
4 responsive?

5 A. Correct.

6 Q. Okay. Because Sergeant Tate told you that she
7 had tried to wake him up and she couldn't?

8 A. Yes.

9 Q. Okay. At that point did you have any theory
10 about what was wrong with Mr. McCollum?

11 A. What do you mean by theory?

12 Q. Well, did you have any idea in your mind what
13 might be wrong with him?

14 A. I mean, I could -- I could speculate all day.
15 There was a lot of things that, you know, ran through my
16 mind, but nothing that -- that caused me to act one way
17 or another.

18 Q. What were the things that ran through your
19 mind?

20 A. I was told that -- that he was hot, and I
21 thought -- at one point I thought, okay, febrile
22 seizure. Like I said, I looked at his feet, and I
23 thought diabetic. So, of course, you know, I'm
24 thinking, well, this might be -- this might have
25 something to do with it. It was, you know, just those

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1 couple of things that kind of ran across my mind.

2 Q. When you -- so when you eventually got to his
3 bunk, you thought this man obviously has a medical
4 problem that we can't take care of here, he needs to go
5 to the emergency room?

6 A. I mean, I thought, well, something's going on,
7 I don't know what it is, but he's going to the emergency
8 room.

9 Q. Okay.

10 MR. MEDLOCK: There's five minutes left
11 on the tape. We'll take a quick break.

12 THE VIDEOGRAPHER: Off the record at
13 12:57 p.m.

14 (Recess.)

15 THE VIDEOGRAPHER: Going on the record at
16 1:03 p.m.

17 Q. Lieutenant, you said that you knew that you
18 would have been conducting count when you received this
19 call; is that right?

20 A. Yes.

21 Q. And do you -- do you count the same time every
22 day approximately?

23 A. Approximately.

24 Q. So that's how you know that -- and when would
25 that count have been conducted approximately?

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1 and we could have discussed it later.

2 Q. Okay. That's not what happened here, though.

3 A. Correct.

4 Q. She waited for you to arrive?

5 A. Correct.

6 Q. And then you talked to the nurse at the Crain
7 Unit?

8 A. Right.

9 Q. And then you and the nurse at the Crain Unit
10 made the decision to call 911; is that right?

11 A. Correct.

12 Q. Okay. What information did you feel you
13 needed from the nurse at the Crain Unit before deciding
14 to call 911?

15 A. Like I said, it had been a situation where it
16 was called over the radio that the offender was having a
17 seizure. We dealt with seizure issues quite often. It
18 was only when -- I don't know -- like I said, I don't
19 know what the situation -- what triggered it, but we
20 would have called Crain anyway. We would have called
21 the Crain Unit anyway to notify them that this offender
22 was having a seizure.

23 But what it was, he never was responding
24 to the things. You know, we give the chest rub. It --
25 it makes you, even if you're unconscious -- well, not

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1 unconscious, but if you are asleep, it will make you
2 twitch. He wasn't responding to that. He wasn't
3 responding to anyone speaking to him.

4 And so it was that that triggered me
5 saying to the -- to the triage nurse -- you know, I'm
6 telling the triage nurse all of this, and she's looking.
7 There's no history of seizure. We don't know why he's
8 having a seizure. Go ahead. Call 911.

9 So -- and this is all happening pretty
10 much together. I'm getting this information and relying
11 on it at the same time pretty much.

12 Q. Do you know who did the sternum rub?

13 A. I do not.

14 Q. Okay. You didn't do it yourself?

15 A. No, I didn't do it myself.

16 Q. Were you there when it happened?

17 A. No.

18 Q. Okay. Someone told you that the sternum rub
19 had been performed before you got there?

20 A. Yes.

21 Q. Why did you call the nurse at the Crain Unit
22 before calling 911?

23 A. Just kind of to get some guidance on what was
24 going on. This was an unusual situation. We were
25 thinking that this is a seizure. We're treating it the

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1 same way that we would have treated any other seizure,
2 but this has gone beyond what normally happens, so let
3 me get some guidance from medical at this point.

4 Q. Would you -- if you'd thought it was a
5 seizure, and he woke up when you did the sternum rub,
6 would you still have called medical?

7 A. I mean, just to notify them that he'd had a
8 seizure and to get him a lay in for the next day.

9 Q. Okay. So you would have talked to medical
10 regardless of what happened?

11 A. Regardless.

12 Q. Okay. You knew that night that if he was to
13 get medical attention, though, that it would have to be
14 off of the Hutchins Unit, correct?

15 A. Yes. If he needed direct medical attention,
16 he would have had to go off.

17 Q. And that would have been having to go to the
18 emergency room?

19 A. Yes.

20 Q. Okay. Because there's nowhere else you could
21 have sent them?

22 A. Correct.

23 Q. Okay. Were you still in the dorm when EMS
24 arrived?

25 A. No.

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1 Q. And Warden Polk was the duty warden, meaning
2 he was the one that you, as lieutenant, had to call if
3 there was something going on at the prison?

4 A. Yes.

5 Q. Okay.

6 MR. MEDLOCK: Let's go ahead and mark
7 this one.

8 (Exhibit 21 marked.)

9 Q. Do you recognize this document, Lieutenant
10 Sanders?

11 A. I do.

12 Q. This is an email you sent on July 22nd at 7:57
13 a.m.; is that right?

14 A. Yes.

15 Q. Let's briefly go over who the people this was
16 sent to are. Who is Robert Eason?

17 A. He is the regional director.

18 Q. And Jeff Pringle is the warden here at the
19 Hutchins Unit?

20 A. Yes.

21 Q. And Balden Polk was the assistant warden and
22 the duty warden here at the Hutchins Unit?

23 A. Yes.

24 Q. Terry May, was he a major at the Hutchins
25 Unit?

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1 A. Yes.

2 Q. Kyron Session, who was he?

3 A. He's the captain.

4 Q. At the Hutchins Unit?

5 A. Yes.

6 Q. Who's Tedral Towery?

7 A. He's also a captain here.

8 Q. Who is Della Hale?

9 A. She's a lieutenant.

10 Q. At the Hutchins Unit?

11 A. Yes.

12 Q. Who is Christopher Hernandez?

13 A. He is -- oh, he was a lieutenant at the time.

14 Q. Okay. What about Kevin Brown?

15 A. He's a lieutenant.

16 Q. At the Hutchins Unit?

17 A. Yes.

18 Q. And what about Johnny Roberts?

19 A. He's a lieutenant.

20 Q. Why did you send this email to these people?

21 A. Okay. Any time we have an incident where we

22 have an off-site medical transport, we're to notify

23 Mr. Eason, unit administration, which would be all the

24 people in the "to" section, and then we also notify the

25 lieutenants, the other lieutenants because they have to

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1 keep -- as we get more information about what's going
2 on, we have a packet that we put together called an OMT
3 packet, and so any updates, we would make emails and add
4 to that packet so they --

5 This is kind of like notifying the next
6 lieutenant that's coming on that we do have this going
7 on.

8 Q. Is OMT off-site medical treatment?

9 A. Transport.

10 Q. Transport?

11 A. Yes.

12 Q. Okay. Any time somebody goes to the emergency
13 room, you would follow this protocol?

14 A. Yes.

15 Q. Okay. It says on here that -- do you see
16 Number 3 in the middle there, "Custody Level:
17 Unassigned Processing"?

18 A. Yes.

19 Q. What does that mean?

20 A. That means that he had come in from one of the
21 counties, and he was going through the processing -- the
22 process of being processed into state jail.

23 Q. And most of the people who are here, because
24 it's a transfer unit, do they have that same status, or
25 does that status change as they progress through the in

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

STEPHEN McCOLLUM, and SANDRA §
 McCOLLUM, individually, and STEPHANIE §
 KINGREY, individually and as independent §
 administrator of the Estate of LARRY GENE §
 McCOLLUM, §

PLAINTIFFS

V.

CIVIL ACTION NO.

4:14-cv-3253

JURY DEMAND

BRAD LIVINGSTON, JEFF PRINGLE, §
RICHARD CLARK, KAREN TATE, §
SANDREA SANDERS, ROBERT EASON, the §
UNIVERSITY OF TEXAS MEDICAL §
BRANCH and the TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE. §

DEFENDANTS

Plaintiffs' Consolidated Summary Judgment Response Appendix

EXHIBIT 293

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM, §
STEPHANIE KINGREY, AND §
SANDRA McCOLLU, §
INDIVIDUALLY AND AS §
HEIRS AT LAW TO THE §
ESTATE OF LARRY GENE §
McCOLLUM, § CIVIL ACTION NO.
Plaintiffs, § 3:12-CV-02037
§
VS. §
§
BRAD LIVINGSTON, JEFF §
PRINGLE, RICHARD CLARK, §
KAREN TATE, SANDREA §
SANDERS, ROBERT EASON, §
THE UNIVERSITY OF TEXAS §
MEDICAL BRANCH AND THE §
TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE, §
Defendants. §

* * * * *

ORAL AND VIDEOTAPED DEPOSITION OF
WILLIAM L. STEPHENS
VOLUME 1

October 18, 2013

* * * * *

ORAL AND VIDEOTAPED DEPOSITION OF **WILLIAM L.**
STEPHENS, produced as a witness at the instance of the
PLAINTIFFS, and duly sworn, was taken in the
above-styled and numbered cause on October 18, 2013,
from 4:50 p.m. to 8:05 p.m., before **Brenda J. Wright**,
RPR, CSR in and for the State of Texas, **reported by**
machine shorthand, at the Office of the Attorney
General, 300 West 15th Street, Suite 1200, Austin,

ORIGINAL

1 **Texas**, pursuant to the *Federal Rules of Civil*
 2 *Procedure* and the provisions stated on the record or
 3 attached herein.

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13 -and-

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 15 **TEXAS CIVIL RIGHTS PROJECT**
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Plaintiffs MSJ Appx. 6859

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Mr. Neal Spradlin

Mr. Kyle Smith

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Plaintiffs MSJ Appx. 6860

STIPULATIONS

The attorneys for all parties present stipulate and agree to the following items:

That the deposition of **WILLIAM L. STEPHENS** is being taken pursuant to Notice;

That the deposition is being taken pursuant to the Federal Rules of Civil Procedure;

That the original transcript will be submitted to the witness' attorney, MR. DEMETRI ANASTASIDIS;

That the witness or the witness' attorney will return the signed transcript to the court reporter within **30** days of the date the transcript is provided to the witness' attorney. If not returned, the witness may be deemed to have waived the right to make the changes, and an unsigned copy may be used as though signed.

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Plaintiffs MSJ Appx. 6802

STEPHENS - By Mr. Medlock

17:01 1 A. That's correct.

17:01 2 Q. Then the McConnell Unit?

17:01 3 A. Yes, sir.

17:01 4 Q. And then you became the Regional II director
17:01 5 in 2005. Is that right?

17:01 6 A. Yes, sir. That's correct.

17:01 7 Q. What facilities are in Region II?

17:01 8 A. Okay. You -- the Hutchins Unit is in
17:01 9 Region II, the Boyd Unit, the Buster Cole, the Choice
17:01 10 Moore, the Telford, Johnston, Skyview Hodge, Coffield,
17:01 11 Michael, Beto, Powledge, and Gurney.

17:02 12 Q. And that's the region where Mr. Eason was
17:02 13 also formerly the regional director. Is that right?

17:02 14 A. That's correct. He was a regional director
17:02 15 in Region II.

17:02 16 Q. In Region II. Okay. And as of Mr. Thaler's
17:02 17 retirement, you are the Correctional Institutions
17:02 18 Division director?

17:02 19 A. That's correct.

17:02 20 Q. Okay. And your educational background, you
17:02 21 have a bachelors degree from criminology and
17:02 22 corrections from Sam Houston. Is that right?

17:02 23 A. That's correct.

17:02 24 Q. And do you have any additional education
17:02 25 beyond the bachelors degree?

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STEPHENS - By Mr. Medlock

17:10 1 A. Do you have the report available so I could
17:10 2 look at it? If you're going to ask me questions about
17:10 3 a specific report, I'd like to have a chance to look
17:10 4 at it.

17:10 5 Q. And, you know, I don't think I have a copy
17:10 6 of that with me right now.

17:10 7 A. Okay.

17:10 8 Q. But do you remember having any criticism of
17:10 9 those officers?

17:10 10 A. Me personally having criticism of the
17:10 11 officers? Difficult to say. I wasn't there in the
17:10 12 entire situation. Certainly, in retrospect, looking
17:11 13 back on the incident, I wish we would have called 911
17:11 14 sooner.

17:11 15 Q. You would agree with Mr. Thaler that the
17:11 16 delay in calling 911 was too long in that situation.
17:11 17 Is that fair?

17:11 18 A. I agree there was a significant delay and I
17:11 19 wish they would have called 911 sooner, yes, sir.

17:11 20 Q. Okay. And would you agree that it wasn't --
17:11 21 that in a situation like Mr. McCollum, where the
17:11 22 inmate is having a seizure, is convulsing, is
17:11 23 unresponsive, that that would -- it would be
17:11 24 inappropriate to wait for the sergeant and then wait
17:11 25 for the lieutenant and cause an hour delay before

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Plaintiffs MSJ Appx. 6864

STEPHENS - By Mr. Medlock

17:11 1 calling 911?

17:11 2 A. Yeah. As I understand, reading it, the
17:11 3 first officer on the scene approached Mr. McCollum on
17:11 4 the bed and witnessed what he did, and he initially
17:11 5 called the supervisor to report to the scene, as well
17:12 6 as a video camera. He initiated -- our terminology is
17:12 7 ICS, Incident Command System. That is certainly a
17:12 8 standard protocol.

17:12 9 I certainly think that at some point
17:12 10 when there was a delay for the supervisor to get
17:12 11 there, I wish the officer would have took some
17:12 12 initiative, notified his -- whoever he contacted the
17:12 13 first time that I'm calling 911.

17:12 14 Q. So maybe after ten minutes when the
17:12 15 supervisor doesn't --

17:12 16 A. I really can't put a time on it, I'm sorry.

17:12 17 Q. Such just as an example --

17:12 18 A. Yes, sir.

17:12 19 Q. -- at some point, you think that he should
17:12 20 have stepped up and said, I'm going to call 911 now,
17:12 21 or I'm going to tell the person who has access to the
17:12 22 telephone, we need 911?

17:12 23 A. Not having the report in front of me, okay,
17:12 24 I believe the officer -- there was an radio down there
17:12 25 on the wing. I do believe they had the opportunity to

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Plaintiffs MSJ Appx. 6865

STEPHENS - By Mr. Medlock

17:12 1 tell whomever, their supervisor on the radio, we need
17:13 2 911 and let's call it.

17:13 3 Q. And you think that would have been
17:13 4 appropriate in this situation?

17:13 5 A. Yes, sir.

17:13 6 Q. Okay. If the officer who -- the
17:13 7 correctional officer who first arrived, if he believed
17:13 8 it was an emergency at that point, should he have
17:13 9 waited any time before calling 911? Or making sure
17:13 10 911 was called?

17:13 11 A. The message that I have put out all along
17:13 12 has been, if you feel like you need Emergency Medical
17:13 13 Services and they're not on the unit, call 911.

17:13 14 Q. Okay. So you would agree, if the officer
17:13 15 thought that it was an emergency and there was no
17:13 16 medical services available at the unit, that he should
17:13 17 have immediately called 911?

17:13 18 A. If the officer makes a -- an ascertainment
17:14 19 that it needs -- that this is an emergent medical,
17:14 20 serious life-causing situation, then the officer
17:14 21 should call 911.

17:14 22 Q. Okay.

17:14 23 A. Or excuse me, the officer doesn't have the
17:14 24 ability in the housing area. The officer could make a
17:14 25 request, either by phone or by the radio, and I

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Plaintiffs MSJ Appx. 6800

STEPHENS - By Mr. Medlock

17:20 1 Q. What are the other things?

17:20 2 A. If you'll let me see the annual e-mail, as
17:20 3 we've referenced, I'll read them to you.

17:20 4 Q. Exhibit 50 is the annual e-mail.

17:20 5 A. If you'll show me the one that was signed in
17:20 6 2013, that would probably be the more current one.

17:20 7 Q. Okay. I don't know that we have a copy of
17:20 8 the 2013 e-mail with us.

17:20 9 A. Then I probably wouldn't be able to testify
17:20 10 based on the exhibit you've given me.

17:20 11 Q. Do you know what changes are being made from
17:20 12 this 2011 e-mail?

17:20 13 A. Not by the 2011. I have a good idea about
17:21 14 the 2013 e-mail.

17:21 15 Q. So -- but you can't tell me what those
17:21 16 changes are?

17:21 17 A. I'm not sure what -- if anything changed
17:21 18 from the 2011 to the 2013 as I sit here today.

17:21 19 Q. So you're not sure if there were any changes
17:21 20 made from the 2011 e-mail?

17:21 21 A. To 2013, that's correct.

17:21 22 Q. 2013. Okay. Do you think that there should
17:21 23 have been changes made from the 2011 e-mail to the
17:21 24 2013 e-mail?

17:21 25 A. I think there were.

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Plaintiff's MSJ Appx. 6887

STEPHENS - By Mr. Medlock

17:21 1 Q. Okay. But you don't know what --

17:21 2 A. And I do know the wellness checks was one of
17:21 3 them.

17:21 4 Q. Do you know --

17:21 5 A. And it might have been the only one, but I'm
17:21 6 not sure.

17:21 7 MR. MEDLOCK: Can we make this an
17:21 8 exhibit.

17:21 9 MR. EDWARDS: Demetri, do you have the
17:21 10 2013?

17:21 11 MR. ANASTASIDIS: Yeah, that's it right
17:21 12 there.

17:22 13 MR. EDWARDS: Okay.

17:22 14 (Deposition Exhibit No. 65 marked.)

17:22 15 Q. (BY MR. MEDLOCK) I'm going to mark this
17:22 16 Number 65. Does that appear to be the 2013 e-mail
17:22 17 that we were discussing?

17:22 18 A. That does appear to be that e-mail.

17:22 19 Q. Okay. Looking at the 2013 e-mail, can you
17:22 20 tell me what changes were being made there?

17:22 21 A. It appears, between 2011 and 2013, the
17:23 22 change was the inclusion of some wording on the
17:23 23 wellness check.

17:23 24 Q. No other changes?

17:23 25 A. I don't see any right now. Of course, I

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Plaintiff's MSJ Appx. 6868

STEPHENS - By Mr. Medlock

19:15 1 directors to communicate that down the chain of
19:15 2 command to report things like that back up?

19:15 3 A. That is --

19:16 4 Q. When there is a heat-related issue?

19:16 5 A. Yes, sir.

19:16 6 Q. If there were correctional officers who
19:16 7 testify they were discouraged from making heat-related
19:16 8 workers' compensation claims, what would you say to
19:16 9 that?

19:16 10 A. I would say that that's -- that's not
19:16 11 appropriate, for one. I don't know who would
19:16 12 discourage them. But all employees have avenues on
19:16 13 how to report problems, complaints, grievances,
19:16 14 issues. I mean, those avenues are there.

19:16 15 Q. Would one of those avenues be through their
19:16 16 union?

19:16 17 A. Could they talk to a union representative?
19:16 18 Sure. They have that access.

19:16 19 Q. Do you ever communicate with the union
19:16 20 representatives about concerns that employees have?

19:16 21 A. Yes, sir.

19:16 22 Q. Is heat ever a concern that --

19:16 23 A. I can't remember any of the meetings I sat
19:17 24 in that heat was an issue, no, sir.

19:17 25 Q. Okay. Let's move on to the March 2012. Do

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Plaintiffs MSJ Appx. 6869

STEPHENS - By Mr. Medlock

19:17 1 you see that, Mr. Stephens?

19:17 2 A. Yes, sir. I'm sorry. 58?

19:17 3 Q. Yes, Exhibit 58. Yes. If I could refer you
19:17 4 to page 649. The first page, I'm sorry.

19:17 5 A. These start with seven.

19:17 6 Q. 749.

19:17 7 A. Okay. All right. 749.

19:17 8 Q. It looks like you discuss security reviews
19:17 9 at this meeting and had a handout?

19:17 10 A. Yes, sir.

19:17 11 Q. And then on page 750, it looks like you --
19:17 12 excuse me. It looks like, on page 751, it indicates
19:17 13 you discussed heat preparations?

19:18 14 A. Yes, sir.

19:18 15 Q. Given that this is the March minutes, what
19:18 16 would it mean that you were discussing heat
19:18 17 preparations?

19:18 18 A. Getting ready, preparing for the upcoming
19:18 19 summer months.

19:18 20 Q. And what would that include?

19:18 21 A. Make sure they have sufficient water
19:18 22 coolers, make sure the fans are in operational order,
19:18 23 make sure that we're starting to reemphasize training
19:18 24 and having an awareness out there in the field.

19:18 25 Q. Anything else?

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STEPHENS - By Mr. Medlock

19:18 1 A. I can't think of it right now.

19:18 2 Q. Okay. You see page 754?

19:18 3 A. Yes, sir.

19:18 4 Q. Do you see where it says Heat-Related
19:18 5 Illness at the bottom?

19:18 6 A. Yes, sir.

19:18 7 Q. Do you see where it says, talk about every
19:19 8 month?

19:19 9 A. Yes, sir.

19:19 10 Q. Is that, again, part of emphasizing --

19:19 11 A. I make that assumption, yes, sir. Based
19:19 12 upon -- I didn't write these notes either.

19:19 13 Q. And you don't have any direct memory of this
19:19 14 meeting?

19:19 15 A. No, sir.

19:19 16 Q. You see page 757?

19:19 17 A. Yes, sir.

19:19 18 Q. You see on that first line all the way on
19:19 19 the right, it says, B. Livingston?

19:19 20 A. I see that, yes, sir.

19:19 21 Q. I assume that is Brad Livingston?

19:19 22 A. Yes, sir.

19:19 23 Q. Do you remember if he was at this meeting?

19:19 24 A. I don't remember if he was at the meeting,
19:19 25 but my assumption is, based upon these notes, he

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Plaintiffs MSJ Appx. 6871

STEPHENS - By Mr. Medlock

19:19 1 probably was.

19:19 2 Q. How often does Mr. Livingston attend one of
19:19 3 these meetings?

19:19 4 A. Not very often. He has been known to stick
19:19 5 his head in there, though, and if he -- I don't know.
19:19 6 Not often. I couldn't guess.

19:19 7 Q. From your point of view, how involved is
19:19 8 Mr. Livingston with the day-to-day operations of the
19:19 9 actual prison units as opposed to the other things
19:20 10 that TDCJ does?

19:20 11 A. Well, my experience dealing directly with
19:20 12 Mr. Livingston has started in the last four months,
19:20 13 and I can tell you, he is involved.

19:20 14 Q. Do you ever send e-mails to Mr. Livingston?

19:20 15 A. I can't think of a time I've sent him an
19:20 16 e-mail, no, sir.

19:20 17 Q. I'll refer you to page 760.

19:20 18 A. Yes, sir.

19:20 19 Q. Do you see that? Do you see where it says
19:20 20 Heat-Related Illness in the middle?

19:20 21 A. Yes, sir.

19:20 22 Q. On the side there is an asterisk, then it
19:20 23 says, talk to WS. I assume that's you?

19:20 24 A. I make that assumption, too. Again, I
19:20 25 didn't write the note, so...

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Plaintiffs' MSJ Appx. 6872

STEPHENS - By Mr. Medlock

19:21 1 Q. Okay. I'm going to hand you Exhibit 59,
19:22 2 sir.

19:22 3 A. Yes, sir.

19:22 4 Q. This is the April 2012 minutes. Is that
19:22 5 right?

19:22 6 A. Yes, sir.

19:22 7 Q. And from that first page, it looks like --
19:22 8 it's a little hard to read, but it looks like you
19:22 9 discussed heat-related deaths?

19:22 10 A. Yes, sir.

19:22 11 Q. Is that accurate? Then on page 769 --

19:22 12 A. Yes, sir.

19:22 13 Q. -- again, you discussed that there were ten
19:23 14 deaths in 2011?

19:23 15 A. Yes, sir.

19:23 16 Q. Do you remember that?

19:23 17 A. Oh, I don't remember the meeting
19:23 18 specifically, no, sir.

19:23 19 Q. Does that sound like something you would
19:23 20 have discussed at a meeting around that time?

19:23 21 A. I don't have any reason not to -- when the
19:23 22 subject is offender deaths, not to say that there was
19:23 23 ten deaths, no, sir.

19:23 24 Q. And you wouldn't dispute that this was
19:23 25 probably something that you all talked about at this

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STEPHENS - By Mr. Medlock

19:23 1 meeting --

19:23 2 A. Yeah. Not being the person or whoever wrote
19:23 3 it, no.

19:23 4 Q. Would Mr. Eason have been at this meeting?

19:23 5 A. Typically, all the regional directors are
19:23 6 there. I can't tell you whether he was there or not.

19:23 7 Q. Okay. But, generally, he should have been
19:23 8 there?

19:23 9 A. Typically, all the regional directors are.

19:23 10 Q. And he was a regional director at that time?

19:23 11 A. Yes, sir.

19:23 12 Q. Okay. If Mr. Eason wasn't there, would
19:23 13 these notes be provided to him or would this
19:23 14 information otherwise be conveyed to him?

19:23 15 A. He would send a representative.

19:23 16 Q. And then that person should report back to
19:24 17 him?

19:24 18 A. Sure.

19:24 19 Q. Especially on a topic important, where ten
19:24 20 people had died the previous year?

19:24 21 A. All topics. He would be there -- a
19:24 22 representative would be there for every topic.

19:24 23 Q. You would expect whoever his representative
19:24 24 was to communicate all that to him?

19:24 25 A. Yes, sir.

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Plaintiffs MSJ Appx. 6874

STEPHENS - By Mr. Medlock

19:55 1 the agency is facing. Is that fair?

19:55 2 A. I would say he's engaged, yes, sir.

19:55 3 Q. If Director Livingston told you to -- that
19:55 4 he thought we needed to implement air conditioning in
19:55 5 some part of the Hutchins Unit, would you take steps
19:55 6 to make that happen?

19:55 7 A. I wouldn't be involved in that.

19:55 8 Mr. Livingston would actually coordinate the folks on
19:55 9 the facilities side of the agency.

19:56 10 Q. He would talk to the folks like Mr. Vian and
19:56 11 that --

19:56 12 A. Or Mr. Inmon.

19:56 13 Q. Mr. Inmon is Mr. Vian's supervisor?

19:56 14 A. Yes, sir.

19:56 15 Q. Okay. But he would go down through the
19:56 16 Facilities Division to make that happen?

19:56 17 A. Sure. And probably budget and finance area.

19:56 18 Q. If you wanted -- if you decided,
19:56 19 hypothetically, that you thought, we really need to
19:56 20 air condition parts of the Hutchins Unit, would you
19:56 21 take that up to Mr. Livingston, and then if he agreed,
19:56 22 it would go back down through the Facilities?

19:56 23 A. Yes, sir. That would be my route.

19:56 24 Q. Okay. Are you familiar with TDCJ's
19:56 25 agricultural program?

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Plaintiffs MSJ Appx. 6875

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM,	§
STEPHANIE KINGREY, AND	§
SANDRA McCOLLU,	§
INDIVIDUALLY AND AS	§
HEIRS AT LAW TO THE	§
ESTATE OF LARRY GENE	§
McCOLLUM,	§ CIVIL ACTION NO.
Plaintiffs,	§ 3:12-CV-02037
VS.	§
	§
BRAD LIVINGSTON, JEFF	§
PRINGLE, RICHARD CLARK,	§
KAREN TATE, SANDREA	§
SANDERS, ROBERT EASON,	§
THE UNIVERSITY OF TEXAS	§
MEDICAL BRANCH AND THE	§
TEXAS DEPARTMENT OF	§
CRIMINAL JUSTICE,	§
Defendants.	§

* * * * *

**REPORTER'S CERTIFICATION
ORAL AND VIDEOTAPED DEPOSITION OF
WILLIAM L. STEPHENS
VOLUME 1**

October 18, 2013

* * * * *

I, BRENDA J. WRIGHT, Certified Shorthand

Reporter in and for the State of Texas, hereby certify
to the following:

That the witness, **WILLIAM L. STEPHENS**, was duly
sworn by the officer and that the transcript of the
oral deposition is a true record of the testimony
given by the witness;

I further certify that pursuant to Federal
Rules of Civil Procedure, Rule 30(e)(1)(A) and (B) as

1 well as Rule 30(e)(2) that the signature of the
2 deponent:

3 __X__ was requested by the deponent and/or a
4 party before completion of the deposition and is to be
5 returned within 30 days from date of receipt of the
6 transcript. If returned, the attached Changes and
7 Corrections and Signature pages contain any changes
8 and the reasons therefor;

9 _____ was not requested by the deponent and/or a
10 party before the completion of the deposition.

11 That \$918.95 is the deposition
12 officer's charges for preparing the original
13 deposition transcript and any copies of exhibits,
14 charged to PLAINTIFFS;

15 That pursuant to information given to the
16 deposition officer at the time said testimony as
17 taken, the following includes all parties of record:

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26 **-and-**

27 **Mr. Scott Medlock**
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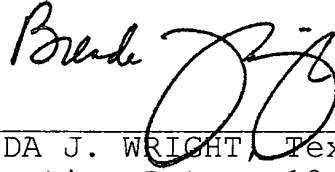
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I further certify that I am neither attorney
nor counsel for nor related to nor employed by any of
the parties to the action in which this deposition is
taken;

Further, I am not a relative nor an employee of
any attorney of record in this cause, nor am I
financially or otherwise interested in the outcome of

1 the action.

2 Certified to by me this 1ST day of NOVEMBER,
3 2013.

4 

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

STEPHEN McCOLLUM, and SANDRA McCOLLUM, individually, and STEPHANIE KINGREY, individually and as independent administrator of the Estate of LARRY GENE McCOLLUM,

PLAINTIFFS

V.

CIVIL ACTION NO.

4:14-cv-3253

JURY DEMAND

BRAD LIVINGSTON, JEFF PRINGLE, §
RICHARD CLARK, KAREN TATE, §
SANDREA SANDERS, ROBERT EASON, the §
UNIVERSITY OF TEXAS MEDICAL §
BRANCH and the TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE. §

DEFENDANTS

Plaintiffs' Consolidated Summary Judgment Response Appendix

EXHIBIT 294

ROY STORIE - March 04, 2014

THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM, STEPHANIE *
KINGREY, and SANDRA *
McCOLLUM, individually and as *
heirs at law to the Estate of *
LARRY GENE McCOLLUM, *

PLAINTIFFS *

vs. *

CIVIL ACTION NO.
3:12-CV-02037

BRAD LIVINGSTON, JEFF PRINGLE, *
RICHARD CLARK, KAREN TATE, *
SANDREA SANDERS, ROBERT EASON, *
the UNIVERSITY OF TEXAS *
MEDICAL BRANCH and the TEXAS *
DEPARTMENT OF CRIMINAL JUSTICE*

DEFENDANTS *

ORAL 30(B)6 DEPOSITION OF ROY STORIE
March 4th, 2014

ORAL 30(B)6 DEPOSITION OF ROY STORIE, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above-styled and numbered cause on the 4th day of March, 2014, from 10:10 a.m. to 1:12 p.m., before Curtis High, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the Hutchins Unit of the Texas Department of Criminal Justice, 1500 E. Langdon Road, Dallas, Texas 75241, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

WRIGHT WATSON & ASSOCIATES, LLC

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Plaintiffs' MSJ Appx. 6881

ROY STORIE - March 04, 2014

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Plaintiffs' MSJ Appx. 6884

ROY STORIE - March 04, 2014

1 Q I know that operating a prison there is a lot
2 of different things that go into keeping the prison
3 safe. And I just want to be clear about like what you
4 are responsible for because I know that there is like
5 the -- you know, kind of the security aspects of the
6 prison. You know, making sure that the inmates are well
7 behaved and going and coming from where they are
8 supposed to be. But then there is also aspects like,
9 you know, making sure the ventilation is working, and
10 then there is another like making sure inmates get
11 medical care, so I was just wondering if you could help
12 me to identify which of those, or all of them, or what
13 subsection of safety issues you work on at the Hutchins
14 Unit?

15 A Well, for instance Food Service I would check
16 for the correct temperature of the food. Sanitation
17 issues. Community Service I would inspect the vans, the
18 transportation to make sure, you know, the
19 transportation they have a safe vehicle as far as tire
20 tread, that sort of thing. First-aid kit, fire
21 extinguisher.

22 Q Anything else?

23 A That pretty much covers all I can think of
24 right now.

25 Q Do you also monitor the temperatures at the

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Plaintiffs' MSJ Appx. 6885

ROY STORIE - March 04, 2014

1 prison?

2 A We are required to take temperatures at one
3 location on the unit from 6:30 to 6:00. Well, 6:30 to
4 6:30 and I do monitor that. It's a heat index and
5 temperature recording.

6 Q You say from 6:30 to 6:30. Is that 6:30 a.m.
7 to 6:30 p.m.?

8 A Correct.

9 Q And you do that year-round or only --

10 A Yes.

11 Q Anything else you do related to temperature at
12 the Hutchins Unit?

13 A Well, in the wintertime we do monitor the air
14 that is coming into the buildings from the outside air
15 handler because it is conditioned. Heated as it comes
16 in. So if that's not working I would alert someone.
17 Maintenance or someone about that.

18 Q You monitor to make sure that the heating
19 element is working in the winter?

20 A Right, that they are provided with heat.

21 Q Okay. And if you find a problem with any of
22 these areas, whether it's food service, sanitation,
23 transportation for community service, you know, the
24 first-aid kits are missing, what -- what do you do if
25 you were to observe that type of problem?

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Plaintiffs' MSJ Appx. 6886

ROY STORIE - March 04, 2014

1 A Yes, or the wiring for the trailer they are
2 towing is not connected or working.

3 Q Okay. So tell me if I am wrong but it sounds
4 like your job is kind of to identify problems and then
5 refer them to the correct people to solve those
6 problems?

7 A Correct.

8 Q If you identified during the summer that there
9 were high temperatures inside some of the dorms, who
10 would you refer that problem to?

11 A Well, high temperatures would be normal unless
12 equipment is not working.

13 Q Would you do anything if you found there were
14 high temperatures inside the dorms during the summer?

15 A Well, if there was anything additional to do,
16 yes.

17 Q Explain what you mean by if there was anything
18 additional to do?

19 A Well, if all of the -- the equipment is working
20 properly that would be the first thing I would do is to
21 check the equipment, the floor fans, the outside air
22 handler.

23 Q And if all of that equipment is working
24 properly, do you report the high temperatures to anyone?

25 A I don't do individual building temperature

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Plaintiffs' MSJ Appx. 6887

ROY STORIE - March 04, 2014

1 checks. Like I say we are required by policy to take
2 the temperatures at one location from 6:30 to 6:30.

3 Q Is that a location outside or inside?

4 A It is an outside temperature and humidity.

5 Q And what is the purpose of taking the
6 temperature outside?

7 A To advise the working crews that work outside
8 in the heat to take necessary precautions.

9 Q Who is that information disseminated to, that
10 information about the outside temperatures?

11 A It's assimilated by the G-Control radio picket
12 to all radio equipped personnel.

13 Q Is G-Control where the temperatures are
14 recorded outside?

15 A Yes.

16 Q So the person working in G-Control would take
17 the temperature and then get on the radio and tell
18 everyone this is what the temperature is at this hour.
19 Is that basically how it works?

20 A Correct. This is what the temperature and the
21 humidity index is.

22 Q So they are reporting the heat index, not just
23 the temperature?

24 A Correct. Cross-reference the humidity with the
25 temperature.

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Plaintiffs' MSJ Appx. 6888

ROY STORIE - March 04, 2014

1 Q And you said that goes to everyone who has a
2 radio. Does that -- are there -- what types of
3 personnel at the unit would have a radio?

4 A Well, all of your supervisors are going to have
5 a radio, and all of your departments such as Community
6 Service, and certain department heads such as
7 maintenance and myself will have radios.

8 Q So like a sergeant working in a building would
9 have a radio but the individual officers working
10 underneath that sergeant in the building would not have
11 radios; is that fair?

12 A Yes, the sergeant will have a radio, and right
13 now the officers in the building have a radio.

14 Q Uh-huh.

15 A On the time period that we are talking about I
16 am not sure if it was implemented at that time.

17 Q So today every officer in the building has a
18 radio but you don't remember in 2011 in the summer?

19 A Correct.

20 Q Okay. You are not the one actually taking the
21 outdoor temperatures at the G-Control, correct?

22 A Correct.

23 Q Let's take a quick step back. Can you describe
24 for the Jury what G-Control is?

25 A G-Control is the control picket in G Building.

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Plaintiffs' MSJ Appx. 6889

ROY STORIE - March 04, 2014

1 Q Describe for the Jury what that means.

2 A It means that they disseminate information to
3 the other security staff. For instance when there is an
4 incident they will go into ICS mode and describe what is
5 happening and request additional supervisors and staff
6 to a certain location if it's needed.

7 Q Is G-Control sort of like the switchboard for
8 the unit? Is that a comparison?

9 A Well, it's a radio picket and it's also the
10 CCTV monitors are there.

11 Q Okay. And physically where does G-Control take
12 the temperatures?

13 A There is a monitor on the inside or the
14 equipment is on the inside with the thermocouple on the
15 outside.

16 Q So there is like a display inside the picket
17 that tells you what the temperature is outside the
18 picket?

19 A Yes, and the humidity.

20 Q And the humidity. And where is the -- can we
21 call the device outside the thermometer; is that fair?

22 A You could.

23 Q I am just trying to find a word so we can be on
24 the same page what we are talking about.

25 A Okay.

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Plaintiffs' MSJ Appx. 6890

ROY STORIE - March 04, 2014

1 Q How so?

2 A Well, you have, you know, 50 plus bodies in the
3 dorm, and that will affect the humidity index alone, and
4 you have people taking showers in the dorm. That will
5 affect the humidity.

6 Q So would the number of bodies inside the dorm
7 increase or decrease the humidity level inside the dorm?

8 A It would increase.

9 Q And would the use of showers inside the dorm
10 increase or decrease the amount of humidity inside the
11 dorm?

12 A It would increase.

13 Q So is it fair to say that the heat index inside
14 the dorm can't be calculated by combining the humidity
15 reading outside plus the temperature inside because the
16 humidity value inside is actually probably higher?

17 A That would be a correct assumption.

18 Q Have you ever attempted to calculate how much
19 higher it would be?

20 A No.

21 Q Is there any reason why you haven't done that?

22 A Because I can recognize the humidity level when
23 it's extreme in the dorm versus the outside if the air
24 handler is not working because the air handler is key to
25 pushing out the humidity in the dorm.

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Plaintiffs' MSJ Appx. 6891

ROY STORIE - March 04, 2014

1 Q Yeah. That's something you would know about
2 the Hutchins Unit as the Risk Manager at the Hutchins
3 Unit; is that fair?

4 A Yes.

5 Q Okay. Mr. Storie, I would like to show you
6 this document -- let's go ahead and mark this as
7 Exhibit 1.

8 (Exhibit 1 marked and attached.)

9 Q (By Mr. Medlock) You see Exhibit 1 in front of
10 you, Mr. Storie?

11 A Yes.

12 Q Can you describe briefly for the Jury what
13 Exhibit 1 is?

14 A It's AD-10.64, Attachment B, Heat and Humidity
15 Matrix.

16 Q Is that the document that TDCJ uses to
17 calculate the heat index?

18 A Yes.

19 Q As far as you know is this document accurate?

20 A Yes.

21 Q Okay. You wouldn't dispute that using this
22 heat and humidity matrix is the proper way to calculate
23 the heat index?

24 A Rephrase the question.

25 Q You wouldn't dispute that using this heat and

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Plaintiffs' MSJ Appx. 6892

ROY STORIE - March 04, 2014

1 humidity matrix is the proper way to calculate the heat
2 index, would you?

3 A No.

4 Q Now, looking at this document, Mr. Storie,
5 there are certain apparent temperature values. Apparent
6 temperature basically means the heat index, correct, is
7 that your understanding?

8 A Yes.

9 Q There are certain apparent temperature values
10 in this matrix where there are asterisks. Either one,
11 two or three asterisks next to the number. Do you see
12 that?

13 A Yes.

14 Q And those -- what do those one, two or three
15 asterisks mean?

16 A Well, one asterisk means heat exhaustion
17 possible. Two asterisks, heat stroke possible. Three
18 asterisks, heat stroke imminent.

19 Q What does heat stroke imminent mean to you?

20 A Well, it means precautions should be taken to
21 make sure that anyone working in those conditions are
22 not going to be affected by the heat.

23 Q Does it mean that you should do anything for
24 people other than the people who are working?

25 A Well, it means that everyone should have access

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Plaintiffs' MSJ Appx. 6893

ROY STORIE - March 04, 2014

1 to potable water, and if they are not working then they
2 are out of the sun, but for -- other than for crews or
3 offenders that are working there is not much else.

4 Q Okay. We talked about how there is one, two
5 and three asterisks. One being heat exhaustion
6 possible. Two being heat stroke possible and three
7 being heat stroke imminent. Is it fair to say that that
8 from one to three asterisks on this matrix means that
9 there is an escalating concern as the more asterisks you
10 have next to an apparent temperature value?

11 A Yes.

12 Q And that the agency does more things at the
13 three asterisks level than at the one asterisk level?

14 A Yes.

15 Q Now, you said that at the three asterisks level
16 for heat stroke imminent the thing that you should be
17 doing for prisoners who are not working is making sure
18 they have access to potable water; is that right?

19 A Correct.

20 Q Is that any different than what you do with the
21 one asterisk level for offenders who are not working?

22 A No, they should always have access to potable
23 water.

24 Q Is it fair to say that the agency doesn't do
25 anything different for prisoners who are not working at

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Plaintiffs' MSJ Appx. 6894

ROY STORIE - March 04, 2014

1 the one asterisk level than the three asterisk level?

2 MR. GARCIA: Objection, speculation.

3 THE WITNESS: Could you repeat the
4 question?

5 Q (By Mr. Medlock) Sure. For prisoners who are
6 not working is there any difference between what the
7 agency does at the one asterisk level and the three
8 asterisks level?

9 A Yes, there -- there is. We -- we do do things.
10 Are you talking about working crews now?

11 Q No, I am talking about inmates who are not
12 working.

13 A Oh, okay. No.

14 Q And just to make the record clear was there
15 anything in 2011, in the summer of 2011, that the agency
16 was doing differently for inmates not working at the one
17 asterisk level versus the three asterisks level?

18 A I don't recall.

19 Q Since the summer of 2011, have there been any
20 changes in how the agency approaches protecting
21 prisoners from temperature extremes at the Hutchins
22 Unit?

23 A I couldn't speculate on the agency level.

24 Q At the Hutchins Unit level have you seen any
25 changes as to what the agency does?

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Plaintiffs' MSJ Appx. 6895

ROY STORIE - March 04, 2014

1 dorm the air handler should be purging that?

2 A Correct.

3 Q Prior to July, 2011, were you aware that
4 inmates with certain medical conditions were more
5 susceptible to heat related illness?

6 A Yes.

7 Q Do you know what those medical conditions were?

8 A High blood pressure, diuretics. Those are the
9 most common that I am aware of, but I am sure there are
10 other medications, but I am not a medical person.

11 Q Sure. For those inmates that were -- had high
12 blood pressure or were taking diuretics in the summer of
13 2011, inmates who are not working, did you as the Risk
14 Manager do anything to assist those inmates on the
15 hottest days of the summer?

16 A If they weren't in distress, I didn't. I
17 didn't know who they were or what conditions they had.

18 Q It's fair to say you don't know which inmates
19 are taking diuretics?

20 A Correct.

21 (Interruption at door.)

22 Q (By Mr. Medlock) I was asking you about high
23 blood pressure. You don't know which inmates have high
24 blood pressure, right?

25 A No, sir.

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Plaintiffs' MSJ Appx. 6896

ROY STORIE - March 04, 2014

1 Q (By Mr. Medlock) You don't have any medical
2 training, correct, Mr. Storie?

3 A No.

4 Q If you found a prisoner hot to the touch,
5 convulsing and nonresponsive, would you think it would
6 be appropriate to wait for an hour before calling 911?

7 MR. GARCIA: Objection, speculation, lack
8 of foundation.

9 THE WITNESS: I have no medical training
10 to make that decision whether I would have or not. I
11 may have.

12 Q (By Mr. Medlock) You may have called 911 sooner
13 than that?

14 A Well, you know, it's going to depend on the
15 circumstances and I would probably notify supervision.

16 Q You would go through your supervisor before
17 calling 911; is that fair?

18 A Okay. If I found someone in that condition in
19 a hot environment I would probably err on the side of
20 caution and arrange for 911.

21 MR. GARCIA: Objection, nonresponsive.

22 Q (By Mr. Medlock) Okay. Is there any reason why
23 there aren't cold water fountains in the dorms at the
24 Hutchins Unit that you are aware of?

25 A I am not aware of why there are not any.

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Plaintiffs' MSJ Appx. 6897

ROY STORIE - March 04, 2014

1 Q Okay. From -- are you aware of any discussion
2 about using portable air-conditioning units in the dorms
3 at the Hutchins Unit?

4 A No, sir.

5 Q Okay. Are you aware of any studies on the cost
6 of putting air-conditioning in any part of the Hutchins
7 Unit?

8 A No, sir.

9 Q Are you aware of any studies on the cost of
10 putting air-conditioning in any part of the Texas
11 Department of Criminal Justice?

12 A No, sir.

13 MR. MEDLOCK: Take a quick break?

14 MR. GARCIA: Sure.

15 (Recess from 1:04 p.m to 1:09 p.m.)

16 (Exhibit 11 marked and attached.)

17 Q (By Mr. Medlock) Mr. Storie, I have handed you
18 a document marked Exhibit 11.

19 A Yes, sir.

20 Q Is that the temperature logs that we were
21 talking about earlier today? They are recorded between
22 6:30 a.m. and 6:30 p.m.; is that right?

23 A Yes.

24 Q Do you actually review this document at any
25 point or are you just aware that they keep these

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ROY STORIE - March 04, 2014

1 temperature logs?

2 A No, I monitor it and make sure that they are
3 actually recording the temperatures and the humidity.

4 Q Okay. How do you monitor it? Like do you look
5 at these daily, weekly?

6 A It's usually daily. Now I may, you know, miss
7 a day or two during the week depending on what is going
8 on.

9 Q Uh-huh.

10 A But I try to monitor it. Like when I come in
11 in the morning I ask for the log.

12 Q That's kind of on your list of things that you
13 do every day?

14 A Yes.

15 Q And are you doing it more to see what the
16 temperature is or to see that the temperatures are being
17 recorded?

18 A I am doing it more to see that the temperatures
19 are being recorded because I am probably aware of what
20 the temperatures are and have been.

21 Q Okay. That's from just doing your job as the
22 Risk Manager?

23 A Correct.

24 Q I want you to go to the Page 1492. You see
25 there a page number at the bottom right-hand corner?

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Plaintiffs' MSJ Appx. 6899

ROY STORIE - March 04, 2014

1 A Uh-huh, okay.

2 Q There are some numbers there in the middle of
3 the page, 149 degrees plus. Do you see that?

4 A Yes.

5 Q Do you have any reason to dispute that those
6 readings are accurate?

7 A Well, doesn't seem to be. I would have to
8 cross index it on our chart. With 65 percent humidity.
9 Yes, sir, it appears it's going to be accurate.

10 Q Okay. You have no reason to dispute the
11 accuracy of those numbers at least?

12 A I am referring to the chart and the chart
13 indicates it's the same as what is on the log.

14 Q Okay. And that's the only way you know to
15 determine the heat index is from looking at the matrix
16 that is marked Exhibit 1?

17 A Correct.

18 MR. MEDLOCK: Okay. I will pass the
19 witness.

20 MR. GARCIA: Nothing further or no
21 questions at this time. That's it. Erika?

22 MS. HIME: We will reserve our questions
23 for trial.

24 MR. GARCIA: We are done.

25 (Proceedings concluded at 1:12 p.m.)

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Plaintiffs' MSJ Appx. 6900

ROY STORIE - March 04, 2014

1 STATE OF TEXAS

2 COUNTY OF DALLAS

3 REPORTER'S CERTIFICATE

4 ORAL DEPOSITION OF ROY STORIE

5 March 4th, 2014

6 I, the undersigned Certified Shorthand Reporter
7 in and for the State of Texas, certify that the facts
8 stated in the foregoing pages are true and correct.

9 I further certify that I am neither attorney or
10 counsel for, related to, nor employed by any parties to
11 the action in which this testimony is taken and,
12 further, that I am not a relative or employee of any
13 counsel employed by the parties hereto or financially
14 interested in the action.

15 SUBSCRIBED AND SWORN TO under my hand and seal
16 of office on this the 11th day of March, 2014.

17 
18
19

CURTIS HIGH, CSR NO. 484

20 Expiration Date: 12/31/14

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25

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Plaintiffs' MSJ Appx. 6901

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

STEPHEN McCOLLUM, and SANDRA McCOLLUM, individually, and STEPHANIE KINGREY, individually and as independent administrator of the Estate of LARRY GENE McCOLLUM,

PLAINTIFFS

V.

CIVIL ACTION NO.

4:14-cv-3253

JURY DEMAND

BRAD LIVINGSTON, JEFF PRINGLE, §
RICHARD CLARK, KAREN TATE, §
SANDREA SANDERS, ROBERT EASON, the §
UNIVERSITY OF TEXAS MEDICAL §
BRANCH and the TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE. §

DEFENDANTS

Plaintiffs' Consolidated Summary Judgment Response Appendix

EXHIBIT 295

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM, §
STEPHANIE KINGREY, and §
SANDRA McCOLLUM, §
individually and as §
heirs at law to the §
Estate of LARRY GENE §
McCOLLUM, §
Plaintiffs, §

VS §

BRAD LIVINGSTON, JEFF §
PRINGLE, and the TEXAS §
DEPARTMENT OF CRIMINAL §
JUSTICE, §
Defendants. §

CIVIL ACTION NO.
3:12-cv-02037

ORAL AND VIDEOTAPED DEPOSITION OF

KAREN SUE TATE

FEBRUARY 7, 2013

ORAL AND VIDEOTAPED DEPOSITION OF KAREN
SUE TATE, produced as a witness at the instance of the
PLAINTIFFS, and duly sworn, was taken in the
above-styled and numbered cause on the 7th day of
February, 2013, from 3:57 p.m. to 5:49 p.m., before TINA
TERRELL BURNEY, CSR in and for the State of Texas,
reported by machine shorthand, at the Hutchins State
Jail, 1500 E. Langdon Road, Dallas, Texas 75241,
pursuant to the Federal Rules of Civil Procedure.

Stephen McCollum, et al.
Brad Livingston, et al.

Karen Sue Tate
February 07, 2013

A P P E A R A N C E S

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Warden Pringle

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Stephen McCollum, et al.
 Brad Livingston, et al.

Karen Sue Tate
 February 07, 2013

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Stephen McCollum, et al.
Brad Livingston, et al.

Karen Sue Tate
February 07, 2013

1 Q. -- Unit? Okay. So your --

2 MR. HARRIS: Take a breath between the
3 question and answer. Let him get the question out.

4 Q. Your entire time at the Hutchins Unit, you've
5 been a sergeant -- or, I'm sorry. Let me -- all of your
6 time as a sergeant has been spent at the Hutchins Unit?

7 A. Yes, sir.

8 Q. Okay. Who was your direct supervisor in July
9 of 2011?

10 A. Lieutenant Sanders.

11 Q. And do you know who Sanders -- Lieutenant
12 Sanders' supervisor was?

13 A. The senior warden.

14 Q. Or the duty warden, whoever was on duty?

15 A. Or the duty warden, yes, sir.

16 Q. So her supervisor would have been Warden
17 Pringle or whoever else -- whoever the duty warden was
18 that particular day?

19 A. Yes, sir.

20 Q. Okay. Now, as a sergeant, you supervise other
21 officers; is that correct?

22 A. Yes, sir.

23 Q. How many officers did you supervise in July of
24 2011?

25 A. I don't know the exact number. On duty

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Stephen McCollum, et al.
Brad Livingston, et al.

Karen Sue Tate
February 07, 2013

1 MR. HARRIS: Well, Counsel, I'm going to
2 object to you mischaracterizing what's written in the
3 document. It says: "If heating continues, the
4 condition can progress to a heat stroke and death."
5 That's what it says, and that's what was read.

6 A. Yes, sir.

7 Q. You agree that's what was read?

8 A. Yes, sir.

9 Q. That little -- that sentence right there. Do
10 you know, Sergeant, if heat stroke can cause death?

11 A. I've read that, sir.

12 Q. Okay. You wouldn't have any reason to not
13 believe that?

14 A. No, sir.

15 Q. You would have believed in the summer of 2011
16 that it was possible for heat stroke to cause death?

17 A. Extreme temperatures, yes, sir.

18 Q. So extreme temperatures could cause heat
19 stroke and then death?

20 A. Yes, sir.

21 Q. Okay. On the second page here where it says
22 "Heat Exhaustion," it lists some symptoms of heat
23 exhaustion. You were aware that symptoms of heat
24 exhaustion could include weakness, anxiety, fatigue,
25 thirst, dizziness, headaches, paleness, muscle cramps,

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Stephen McCollum, et al.
Brad Livingston, et al.

Karen Sue Tate
February 07, 2013

1 nausea, vomiting and faintness?

2 A. I read that, sir.

3 Q. Okay. So you were aware that that was true?

4 A. Yes, sir.

5 Q. Okay. You see that treatment for heat
6 exhaustion is moving the patient to a cool area and
7 having them lie down?

8 A. I read that, sir.

9 Q. So you would know that that was the treatment
10 that was required when someone had heat exhaustion?

11 A. That's recommended, sir, yes.

12 Q. To move them to a cool place?

13 A. Yes, sir.

14 Q. Okay. You see in the middle of the second
15 column that heat stroke is a true medical emergency, and
16 it can progress to heat stroke?

17 A. Yes, sir.

18 Q. So you would have known that heat stroke is a
19 medical emergency?

20 A. Yes, sir.

21 Q. And that symptoms of heat stroke include hot
22 and dry skin, pulse rate, respirations are rapid and
23 weak?

24 A. I read that, sir.

25 Q. Okay. So you would have known that in July of

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1 of 2011?

2 A. Yes, sir.

3 Q. And you see that there's a little picture of
4 an ambulance under the description of heat stroke where
5 it says, again, that it's a -- do you see -- see the
6 picture of the ambulance?

7 A. Yes, sir.

8 Q. Does that imply to you that, again, this is a
9 medical emergency, and someone needs to be put in an
10 ambulance?

11 A. Yes, sir.

12 Q. And in the top of the third column at the end
13 of that first paragraph it says, "Always transfer heat
14 stroke victims to a medical facility." Do you see that?

15 A. Yes, sir.

16 Q. At the Hutchins Unit, there are no medical
17 staff during the night shift; is that right -- or there
18 were not in the summer of 2011?

19 A. On site, no, sir.

20 Q. So you would have known in July of 2011 that
21 if someone was going to get to a medical facility to get
22 any medical attention at all, it would have to be off of
23 the Hutchins Unit; is that right?

24 A. Yes, sir.

25 Q. Okay. Is there still no medical staff at the

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1 Hutchins Unit during the night shift?

2 A. No, sir.

3 Q. So it's -- it would still be true today that
4 if someone was going to get medical attention during the
5 night shift, it would have to be off of the Hutchins
6 Unit?

7 A. We do have DMS where we contact the Crain
8 Unit.

9 Q. What -- for the jury, what's DMS?

10 A. I'm not real sure what the DMS stands for,
11 Medical System, I know that, Direct Medical System or...

12 MR. HARRIS: If you don't know, just say
13 you don't know.

14 A. I don't know exactly, no.

15 Q. How does it work? From what you do know, what
16 is it?

17 A. The offender, if able, is taken before --
18 taken into medical, and the Crain Unit is notified, and
19 they come on a television and actually look and talk to
20 the offender.

21 Q. So it's like a telemedicine?

22 A. Yes, sir.

23 Q. Okay. Would you always use the DMS for
24 someone who was having a -- would you have -- let me
25 start over. Would you use DMS for someone who is having

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1 an emergency?

2 A. If applicable, yes, sir.

3 Q. When would you use it? Like if someone is

4 found collapsed having a seizure and is nonresponsive,

5 would you take him to DMS?

6 A. It depends -- not necessarily, sir.

7 Q. What would it depend on?

8 A. The extent of the seizure, sir.

9 Q. If they remained unresponsive, would you take

10 them to DMS?

11 A. Yes, and notify them by phone immediately.

12 Q. Okay. So you would call -- why would you do

13 that?

14 A. To notify them. They have access to the

15 medical records if they have medical records built.

16 Q. Okay. So you would do that to see what

17 information the Crain Unit had on them?

18 A. And see what treatment they wanted us to go

19 with.

20 Q. Okay. Would you always do that before calling

21 911?

22 A. Not necessarily, sir.

23 Q. Okay. Well, let's take a step back. As a

24 sergeant, could you call 911?

25 A. I would notify my immediate supervisor first.

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1 Q. That would be the lieutenant?

2 A. Yes, sir.

3 Q. Would you -- according to the policies here at
4 the Hutchins Unit, and the practice and procedure that
5 you follow, can you, as a sergeant, pick up the phone
6 and call 911?

7 A. I would notify my lieutenant.

8 Q. You have to notify your lieutenant before
9 calling 911?

10 A. I would notify my lieutenant.

11 Q. You would. Okay. Is there a policy or
12 procedure that says you have to notify your lieutenant
13 before calling 911?

14 A. No, sir, I don't believe so.

15 Q. Is that how you've been instructed to contact
16 911, that you go through the lieutenant first?

17 A. I go through -- I mean, we've always called
18 ranking officers. I would call the lieutenant.

19 Q. Who told you that you needed to call a ranking
20 officer before you called 911?

21 A. No one.

22 Q. That's just the way things are done here at
23 the Hutchins Unit?

24 A. Through the chain of command, I would contact
25 my lieutenant.

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1 Q. Okay. Officer Clark had similar testimony,
2 that he would go through the chain of command before
3 calling 911. Is that how things are done here at the
4 Hutchins Unit, you go through your chain of command
5 before you call 911?

6 A. I would.

7 Q. You would. Do you know if everybody would
8 here at the Hutchins Unit?

9 A. I can't speak for everyone.

10 Q. Is that the way things are supposed to be done
11 at the Hutchins Unit?

12 A. That's the way I do it.

13 Q. Okay. And you do things the ways things are
14 supposed to be done?

15 A. I try to, sir.

16 Q. Okay. Is there anything that you know of that
17 would prevent you from using the DMS system and calling
18 911 at the same time?

19 A. No, sir.

20 Q. So you could do that? You could call DMS and
21 call 911 at the same time?

22 A. Yes, sir.

23 Q. And just to be clear, did the DMS system exist
24 in the -- in July of 2011?

25 A. I believe so, sir.

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1 Q. Okay. Do you know -- the DMS would just
2 connect you with who? How -- do you know who the DMS
3 system would connect you with? Would it be a doctor or
4 a registered nurse?

5 A. A registered nurse.

6 Q. A registered nurse. Okay. So would you ever
7 see a doctor through the DMS system?

8 A. I have not, sir.

9 Q. Okay. So then you were aware in July of 2011
10 that if someone was going to see a doctor, it would have
11 to -- it wouldn't be through DMS?

12 A. Yes, sir.

13 Q. Okay. I want you to go back to your -- the
14 training roster, Exhibit 17. Can you look and see if
15 Officer Clark attended that training?

16 A. Yes, sir.

17 Q. Officer Clark did attend?

18 A. Yes, sir.

19 Q. How about Officer Jolayemi?

20 A. Yes, sir.

21 Q. She did as well?

22 A. Yes, sir.

23 Q. Okay. Do you -- when you do the training, do
24 you do anything to make sure that the officers are
25 actually paying attention?

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1 A. No, sir.
2 Q. Okay. What shift do you work?
3 A. Third shift, sir.
4 Q. And third shift is from 10:30 p.m. to 6:30
5 a.m.?
6 A. 9:45 p.m. to 6:45 a.m.
7 Q. And is that the shift you've always worked at
8 the Hutchins Unit?
9 A. No, sir.
10 Q. Do you still work that shift today?
11 A. Yes, sir.
12 Q. Have you worked that shift the entire time
13 since July 2011 to today?
14 A. Yes, sir.
15 Q. When -- how long have you worked that shift?
16 A. I would have to guess.
17 Q. That's fine.
18 A. It would probably be since approximately
19 February of 2011.
20 Q. Okay. So almost two years you've been working
21 that shift?
22 A. Yes, sir.
23 Q. Okay. Have you ever -- has it ever been your
24 responsibility to create this temperature log?
25 A. No, sir.

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1 Q. Or a document like it?

2 A. No, sir.

3 Q. Okay. If you had heard over the radio that it
4 was 150 degrees, what would you have done for the
5 prisoners?

6 MR. HARRIS: Objection,
7 mischaracterization of the evidence and the testimony,
8 and it calls for speculation.

9 A. I would encourage them to stay hydrated, and
10 if they need to get in the shower and cool down, that
11 would be an option.

12 Q. Would you have done anything else?

13 A. I would be checking on them. I check on all
14 of them the best I can, yes, sir.

15 Q. You would agree that a heat index of 150 is
16 dangerous temperatures, right?

17 A. I'll agree that it's hot. I'm working in it
18 too, sir.

19 Q. Would you agree that it's dangerous at that
20 level?

21 A. Yes, sir.

22 Q. In July 2011, had you ever seen a list of
23 prisoners with medical conditions that make the heat
24 especially dangerous for them?

25 A. I do not recall.

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1 Q. And the officers that you supervise work in
2 those dorms where there's no air conditioning, right?

3 A. Yes, sir.

4 Q. You'd agree with me that it gets pretty hot in
5 there during the summer, wouldn't you?

6 A. Yes, sir.

7 Q. Do you hear staff complain to you about the
8 heat in the dorms?

9 A. Yes, sir. I complain.

10 Q. You complain. Who have you complained to?

11 A. I fuss right along with the officers and the
12 offenders about the heat.

13 Q. Do you complain to your supervisors, or do you
14 just...

15 A. They don't predict the weather or make it
16 happen. No, sir. We all just fuss about the heat.

17 Q. Okay. But everybody is kind of aware at the
18 prison that it's very hot in the dorms?

19 A. Yes, sir.

20 Q. And you mentioned the prisoners complain about
21 the heat?

22 A. Yes, sir.

23 Q. I assume that probably every summer you've
24 worked here, you've heard complaints about the heat from
25 prisoners and from staff?

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1 Q. You'd agree that when the air conditioning is
2 working in the picket, that that makes a big difference,
3 that's a big difference in the temperature between the
4 picket and the dorm, though, right?

5 A. Yes.

6 Q. When you're working in the dorms, like we've
7 talked about, do you ever take a break somewhere where
8 there's air conditioning in the summer?

9 A. If possible.

10 Q. Probably every time you could take a break,
11 you'd take a break in the air conditioning; is that
12 right?

13 A. I'd have to complete the duties first, sir.

14 Q. Assuming that you could take a break, that
15 you'd done everything you were supposed to, you know,
16 you had time for your lunch or whatever, you'd -- you'd
17 have your lunch in a place that was air conditioned,
18 right?

19 A. If possible, sir, yes.

20 Q. Okay. And you'd agree that it stays hot in
21 those dorms even in the middle of the night, right?

22 A. It stays warm, yes, sir.

23 Q. It's more than warm. It's -- it's hot, right?

24 A. Yes, sir.

25 Q. And you can't open the windows in those dorms,

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1 Q. One large Igloo?

2 A. Yes, sir.

3 Q. To explain to the jury what a large Igloo is,
4 is that like one the jugs of Gatorade that you see get
5 dumped on the coach at the Super Bowl?

6 A. Yes, sir.

7 Q. Okay. About that size?

8 A. Yes, sir.

9 Q. Is that about a ten-gallon jug?

10 A. I don't know the exact weight, sir.

11 Q. Okay. Where -- where is the Igloo kept?

12 A. It's in a rack on the wall.

13 Q. And where's the rack on the wall in the dorm?

14 A. In the glass area at the front door.

15 Q. Is that by where the picket is located?

16 A. You can see it from the picket.

17 Q. Okay. And do prisoners need a cup to get
18 water out of the jug?

19 A. They would have a cup, yes.

20 Q. If the prisoner had a cup, that's what they
21 would use to get water out of the jug?

22 A. Yes, sir.

23 Q. If the prisoner didn't have a cup, could they
24 get water out of the jug?

25 A. Yes, sir, I'm sure. We provide the snow cone

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1 cups.

2 Q. Okay. The little Dixie cup?

3 A. Yes, sir.

4 Q. Where are those kept?

5 A. They're dispensed to the offenders.

6 Q. Are they in a rack next to the jugs, or are

7 they passed out?

8 A. No, sir. They're passed out.

9 Q. Who passes those out?

10 A. The officers.

11 Q. When do the officers pass those out?

12 A. I would -- as needed. If the offender tells

13 them they need a cup, they should be able to get them

14 one.

15 Q. So the prisoner would have to ask the officer

16 for the cup, for the officer to give them one. There's

17 no set -- is that right?

18 A. Not to my knowledge, no, sir.

19 Q. Okay. That was a very poorly worded question.

20 I can reword that one. The -- the cups aren't passed

21 out regularly at a certain time; is that right?

22 A. I believe, I'm not sure, but I believe it's

23 each shift is passing them out, yes, sir.

24 Q. Passes out the Dixie cups. Okay. Have you

25 done that --

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1 A. I wouldn't think so, no.

2 Q. When you arrived at the dorm, what other
3 officers were there?

4 A. Officer Clark and Officer Jolayemi.

5 Q. Was Officer Jolayemi still in the picket, or
6 had she come out to the bunk?

7 A. She -- she came with me to the bunk.

8 Q. Okay. So you came into the building, and she
9 went with you?

10 A. She was with him.

11 Q. She was already there with him?

12 A. Yes.

13 Q. Were there any other officers there?

14 A. Officer Clark.

15 Q. Okay. Besides officer Clark and Officer
16 Jolayemi, those were all the officers that were there
17 when you arrived?

18 A. When I arrived. I --

19 Q. I'm sorry?

20 A. No, sir.

21 Q. Did other officers show up after you arrived?

22 A. Yes, sir, the A responders, yes, sir.

23 Q. Describe what the A responders means for the
24 jury.

25 A. We assign A and B responders for incidents

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1 A. I believe there was two others that responded,
2 but I'm not sure on who they were at this moment.

3 Q. After an incident like this, should all of the
4 A responders -- or the responders write a statement?

5 A. I don't know -- I mean, if it's needed, yes,
6 sir.

7 Q. Who would determine if it was needed?

8 A. Myself and the lieutenant.

9 Q. Did you tell any of the A responders to write
10 a statement?

11 A. Not that I recall.

12 Q. When you arrived at Mr. McCollum's bunk,
13 describe what he -- what was going on with him.

14 A. He was trembling. I assumed it was a seizure.

15 Q. It looked like what your understanding of a
16 seizure looks like?

17 A. Yes, sir.

18 Q. Like what -- if you saw someone have a seizure
19 on TV, what it would look like?

20 A. Yes, sir.

21 Q. His whole body was shaking; is that right?

22 A. Yes, sir.

23 Q. Was his whole body shaking the entire time
24 that you were there?

25 A. No, sir.

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1 Q. Did it kind of stop and start again, or how
2 did that go?

3 A. I know it stopped, but I don't remember the
4 entire details of it.

5 Q. You remember it stopped, but you don't
6 remember if it started again?

7 A. No, sir.

8 Q. You'd agree that he looked like he was in
9 pretty bad shape, that he needed medical attention when
10 you got there, right?

11 A. I would agree that he was in a little
12 distress. I'm not medically -- medically trained as far
13 as the severity of the need.

14 Q. Would you agree that someone from medical
15 needed to see him at that point?

16 A. I would have liked for them to.

17 Q. Okay. So you thought that he needed medical
18 attention at that point?

19 A. I wanted to get him the proper attention.

20 Q. Was Mr. McCollum still on the top bunk when
21 you arrived?

22 A. Yes.

23 Q. Do you remember what he was wearing?

24 A. His boxers.

25 Q. Was he wearing anything else?

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1 A. Not that I recall.

2 Q. Do you remember what his skin looked like?

3 A. Flushed. It was hot.

4 Q. His -- his body look flushed. Did you touch

5 him?

6 A. Yes.

7 Q. Was his body hot?

8 A. He was warm.

9 Q. Warm like a normal body temperature or warm

10 like he had a fever?

11 A. I didn't touch him all over. I just touched

12 his face, and it was warm.

13 Q. Okay. But warm like --

14 A. Like he could be running a fever.

15 Q. Like he could be running a fever. Okay. When

16 you touched his face, was he sweaty or clammy?

17 A. I don't remember.

18 Q. Do you remember seeing if he was breathing?

19 A. Yes, sir.

20 Q. Did his breathing seem normal to you?

21 A. Yes, sir.

22 Q. Did you talk to Mr. McCollum?

23 A. I talked to him, yes, sir.

24 Q. What did you say to him?

25 A. I asked -- you know, asked him to calm down,

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1 Q. Tell me about that. Describe what happened
2 there.

3 A. I gave him two drips of water off of my
4 fingers to see if he would respond, but then I decided
5 if he's asleep -- heavily asleep, he's not -- may not
6 swallow, and I did not want to choke him, so I did not
7 go any further.

8 Q. So you dipped your fingers in some water and
9 held it over his lips --

10 A. Yes, sir.

11 Q. -- and let it drip on there?

12 A. Yes, sir.

13 Q. Did he respond to that?

14 A. I want to say that he made a noise, but I
15 cannot say for sure.

16 MR. MEDLOCK: It looks like we have five
17 minutes left on the tape, so why don't we take a quick
18 break?

19 MR. HARRIS: Okay.

20 THE VIDEOGRAPHER: Going off the record
21 at 5:24 p.m.

22 (Recess.)

23 THE VIDEOGRAPHER: Going on the record at
24 5:31 p.m.

25 Q. All right. Sergeant Tate, your statement says

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1 anyone with a video camera there at the scene?

2 A. I do not remember.

3 Q. Should there have been somebody with a video
4 camera, according to policy or practice?

5 A. Probably, yes, sir.

6 Q. If there had been somebody with a video
7 camera, what would have happened to the video after the
8 event was over? Do you know?

9 A. It would have been -- the lieutenant would
10 have took it and put it with whatever information we
11 had.

12 Q. That's the lieutenant's job to collect...

13 A. Yes, sir.

14 Q. Does the lieutenant collect the statements?

15 A. You're going to turn it in to her, yes.

16 Q. Your statement says that you were in constant
17 contact with Lieutenant Sanders; is that right?

18 A. Yes.

19 Q. How were you in contact with her?

20 A. She came on to the building.

21 Q. You didn't talk with her before she got on the
22 building?

23 A. I called her to the building and talked to her
24 by phone.

25 Q. Okay. Had anyone else called her before you

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1 at that point?

2 A. I don't remember exactly, no.

3 Q. Okay. What did -- then Lieutenant Sanders
4 went from the bedside to the picket?

5 A. Yes.

6 Q. How long was she in the picket, do you know?

7 A. It would be a guess. I really couldn't tell
8 you.

9 Q. What would your guess be?

10 A. 10, 15 minutes.

11 Q. Did she come back out of the picket then?

12 A. Yes.

13 Q. And was she at the -- then she went back to
14 the bedside?

15 A. She came back in, yes.

16 Q. And do you know where she called 911 from?

17 A. I'm assuming the picket.

18 Q. She couldn't actually call 911 from the picket
19 though, right? Someone at another part of the prison
20 would have to call 911?

21 A. Yes.

22 Q. All she could do from the picket would be to
23 tell someone to call 911?

24 A. Yes.

25 Q. Were you there when the EMTs arrived?

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1 Q. Okay. So you could open all those doors --

2 A. Yes.

3 Q. -- pretty quickly?

4 A. Yes.

5 Q. Okay. What happened when the EMTs arrived in
6 the dorm?

7 A. We went in the -- I went in the dorm, told the
8 other offenders to get away from the bunk area. We went
9 in with the stretcher, removed him from the bunk, put
10 him on the stretcher and took him to medical.

11 Q. Who -- how did you get him off the bunk onto
12 the stretcher?

13 A. It took quite a few people.

14 Q. Do you remember how many?

15 A. I would say at least five.

16 Q. Were officers and EMTs lifting him off the
17 bunk?

18 A. Yes.

19 Q. How did they do that? Did they just pick up
20 an arm and a leg and --

21 A. With the sheet.

22 Q. With the sheet. With the sheet that he was
23 laying on?

24 A. He was lying on, yes.

25 Q. How long did it take to get him off the bunk?

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1 A. I would guess five or six minutes, not long.

2 Q. Did you -- you spoke with the EMTs during this
3 whole process?

4 A. I was more or less hurrying them.

5 Q. Because you knew it was urgent?

6 A. I wanted him to get help if he needed it.

7 Q. Okay. Did they tell you anything about Mr.
8 McCollum?

9 A. I don't remember them doing much other than
10 getting him in the ambulance and telling me that they
11 would be going on code status.

12 Q. Did you know what code status meant?

13 A. Not completely, no.

14 Q. What did -- to your knowledge, what did it
15 mean?

16 A. Serious.

17 Q. Okay. That's why you put that in the report?

18 A. Yes.

19 Q. Do you know if the EMTs took his temperature
20 while he was at the facility?

21 A. No, sir, I don't know.

22 Q. Okay. I understand from reviewing records in
23 this case that there were some officers who went to the
24 hospital to guard Mr. McCollum while he was there. Did
25 you ever -- was that ever part of your duties, or did

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Stephen McCollum, et al.
Brad Livingston, et al.

Karen Sue Tate
February 07, 2013

1 Q. It would be harder for someone --

2 A. Yes.

3 Q. -- walking around to be sleeping on the job?

4 A. He's driving.

5 Q. Okay. The week before July 22nd, do you
6 recall there being any lockdowns or security emergencies
7 at the prison?

8 A. No, sir, I don't remember.

9 Q. Okay. Officer Clark told us that when you
10 arrived at the scene at Mr. McCollum's bunk, that you
11 told him to go to another event happening in the prison;
12 is that right?

13 A. Yes, sir.

14 Q. Why did you tell him to do that?

15 A. He was one of my responding officers.

16 Q. So you -- was he like a B responder?

17 A. He was -- I don't remember if he was A or B,
18 but he was one of my responders.

19 Q. Okay. Why did you send him away instead of --
20 when he was already at an emergency situation?

21 A. It was another emergency situation, and I
22 needed to know the details.

23 Q. Okay. So why did you send Officer Clark
24 instead of somebody else?

25 A. I could not tell you.

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Stephen McCollum, et al.
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Karen Sue Tate
February 07, 2013

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM, §
STEPHANIE KINGREY, and §
SANDRA McCOLLUM, §
individually and as §
heirs at law to the §
Estate of LARRY GENE §
McCOLLUM, §
Plaintiffs, §

VS §

CIVIL ACTION NO.
3:12-cv-02037

BRAD LIVINGSTON, JEFF §
PRINGLE, and the TEXAS §
DEPARTMENT OF CRIMINAL §
JUSTICE, §
Defendants. §

REPORTER'S CERTIFICATION

ORAL AND VIDEOTAPED DEPOSITION OF

KAREN SUE TATE

FEBRUARY 7, 2013

I, Tina Terrell Burney, Certified Shorthand
Reporter in and for the State of Texas, hereby certify
to the following:

That the witness, KAREN SUE TATE, was duly
sworn by the officer and that the transcript of the oral
deposition is a true record of the testimony given by
the witness;

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Brad Livingston, et al.

Karen Sue Tate
February 07, 2013

I further certify that pursuant to FRCP Rule 30(f)(1) that the signature of the deponent:

_____ was requested by the deponent or a party before the completion of the deposition and is to be returned within 30 days from date of receipt of the transcript. If returned, the attached Changes and Signature Page contains any changes and the reasons therefor;

_____ was not requested by the deponent or a party before the completion of the deposition.

I further certify that I am neither attorney or counsel for, nor related to or employed by, any of the parties or attorneys to the action in which this deposition was taken. Further, I am not a relative or employee of any attorney of record in this case, nor am I financially interested in the outcome of the action.

Subscribed and sworn to on this the _____ day of February, 2013.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

STEPHEN McCOLLUM, and SANDRA §
 McCOLLUM, individually, and STEPHANIE §
 KINGREY, individually and as independent §
 administrator of the Estate of LARRY GENE §
 McCOLLUM, §

PLAINTIFFS

V.

CIVIL ACTION NO.

4:14-cv-3253

JURY DEMAND

BRAD LIVINGSTON, JEFF PRINGLE, §
RICHARD CLARK, KAREN TATE, §
SANDREA SANDERS, ROBERT EASON, the §
UNIVERSITY OF TEXAS MEDICAL §
BRANCH and the TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE. §

DEFENDANTS

Plaintiffs' Consolidated Summary Judgment Response Appendix

EXHIBIT 296

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM, §
STEPHANIE KINGREY, AND §
SANDRA McCOLLU, §
INDIVIDUALLY AND AS §
HEIRS AT LAW TO THE §
ESTATE OF LARRY GENE §
McCOLLUM, § CIVIL ACTION NO.
Plaintiffs, § 3:12-CV-02037

VS. §

BRAD LIVINGSTON, JEFF §
PRINGLE, RICHARD CLARK, §
KAREN TATE, SANDREA §
SANDERS, ROBERT EASON, §
THE UNIVERSITY OF TEXAS §
MEDICAL BRANCH AND THE §
TEXAS DEPARTMENT OF §
CRIMINAL JUSTICE, §
Defendants. §

* * * * *

ORAL AND VIDEOTAPED DEPOSITION OF
RICHARD C. THALER
VOLUME 1

October 18, 2013

* * * * *

ORAL AND VIDEOTAPED DEPOSITION OF RICHARD C.

THALER, produced as a witness at the instance of the
PLAINTIFFS, and duly sworn, was taken in the
above-styled and numbered cause on October 18, 2013,
from 9:00 a.m. to 4:35 p.m., before Brenda J. Wright,
RPR, CSR in and for the State of Texas, reported by
machine shorthand, at the Office of the Attorney
General, 300 West 15th Street, Suite 1200, Austin,

Stephen McCollum, et al. v.
Brad Livingston, et al.

Richard C. Thaler
October 18, 2013

1 Texas, pursuant to the Federal Rules of Civil
2 Procedure and the provisions stated on the record or
3 attached herein.

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1 Q. Do you believe that high temperatures inside
2 the Texas prison system can be dangerous, sir?

3 A. I surely believe that extreme temperatures,
4 hot or cold, inside our institutions require our
5 attention and could affect the wellness of offenders,
6 yes, sir.

7 Q. Okay. Let me ask you specifically. As you
8 testify here today, based on your knowledge of the
9 Texas prison system, would you agree with me that high
10 temperatures, above 90 degrees, inside Texas prisons
11 can be dangerous and deadly to offenders?

12 A. Again, I would -- I would agree that under
13 certain circumstances, high temperatures create an
14 additional risk to the offender population and staff
15 working in those facilities.

16 Q. And that additional risk is that people can
17 die. Correct?

18 A. In certain circumstances that has occurred,
19 yes, sir.

20 Q. Okay. And certainly, you know that now,
21 based on your experience in the Texas prison system.
22 Correct?

23 A. Yes, sir.

24 Q. And certainly, you knew that back in 2007,
25 2008, or 2009, based on your experience in the Texas

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1 prison system. Correct?

2 A. No, sir.

3 Q. You didn't know in 2009 that high level --
4 high temperatures were dangerous for offenders?

5 A. I did know they were dangerous, yes, sir. I
6 thought you were asking the question about those
7 temperatures could cause death.

8 Q. Okay. You knew in 2009 that high
9 temperatures were dangerous for offenders, but you
10 weren't sure if they could cause death?

11 A. I knew in 2009, high temperatures could
12 cause additional risks to offenders in our population,
13 yes, sir.

14 Q. Including death?

15 A. In extreme circumstances, yes, sir.

16 Q. Okay. What are the extreme circumstances
17 that you're talking about?

18 A. It would be a multitude of circumstances.
19 But just from -- in 2009, I couldn't outline those for
20 you, except that just from common knowledge as an
21 individual, not necessarily from experiences within
22 the system, extremely high temperatures, particularly
23 in a work environment, could lead to heat stroke and
24 death.

25 Q. So fair to say that as of 2009, just based

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1 on your experience as just a human being, you knew
2 that high temperatures inside could lead to heat
3 stroke?

4 A. I knew that high temperatures could lead to
5 the risk of heat stroke, yes, sir.

6 Q. What is the difference between the risk of
7 heat stroke and actual heat stroke, in your opinion?

8 A. Well, there are certain risk factors which
9 would cause the probabilities of heat stroke to occur
10 to be higher, when I refer to that, but to directly
11 answer your question, it could cause -- high
12 temperatures could cause heat stroke.

13 Q. Sure. And I appreciate that. I mean, I
14 think you were answering my question. What are those
15 additional risk factors that you knew about, let's
16 say, back in 2009, that would make it even more
17 probable that someone would suffer a heat stroke?

18 A. Through training within the system,
19 strenuous activity in those high-temperature
20 conditions, failure to adequately intake liquids,
21 fluids, water, could add to those conditions.

22 Q. What else?

23 A. In certain circumstances, health-related
24 issues could cause to -- additional risk.

25 Q. What health-related issues in particular,

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1 sir?

2 A. There are a multitude of health-related
3 issues out there. Most commonly would be those that
4 were on medications that -- that would cause -- cause
5 that individual to have difficulty dealing with heat.

6 Q. Are you talking about antipsychotic
7 medications?

8 A. Yes, sir.

9 Q. Psychotropic medications?

10 A. Yes, sir.

11 Q. Diuretics that might cause the body to
12 dehydrate?

13 A. Possibly, yes, sir.

14 Q. All right. So you knew about that back in
15 2009. What about, did you know that heart disease or
16 hypertension made the risk of heat stroke higher for
17 an individual?

18 A. I can't say that I actually was in any
19 discussions about that particular illness, but surely
20 it would be logical to assume that maybe it could.

21 Q. Are you aware of training documents in the
22 Texas Department of Criminal Justice which indicate
23 that hypertension does, in fact, increase the
24 likelihood of a person suffering a heat stroke in high
25 temperatures?

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1 ensuring that the policy in the field was followed.

2 Q. Okay. Is another way -- and I want to be
3 fair here -- another way to say that policy is being
4 followed in the field, making sure that your
5 subordinates are doing their jobs correctly?

6 A. Sure.

7 Q. What about other medical conditions like
8 diabetes, were you aware that that would pose a higher
9 risk of potential heat stroke in the Texas prison
10 system if temperatures were high?

11 A. Again, to my recollection, that wouldn't
12 have been specifically something that I -- that I
13 would have knowledge of, but it very well could be.

14 Q. What about age, are you familiar with age
15 being a risk factor with exposure to high temperatures
16 inside?

17 A. Again, generally, those -- those individuals
18 that are higher -- at higher risk to any susceptible
19 illness or injury, I relied heavily on health service
20 to help me with. But I could certainly see where age
21 could result in additional health concerns.

22 Q. Common sense. Fair?

23 A. I would agree.

24 Q. Okay. Likewise, common sense would tell you
25 that -- that I should remember my question before I

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1 start asking it.

2 Let's take a step back.

3 A. Okay.

4 Q. Tell me about your background. And I
5 know -- I know how long you've been with the agency,
6 so just, if you could, just give me your kind of
7 nutshell summary of your background from the time you
8 began with the agency, and then I'll probably ask some
9 more pointed questions -- hopefully, better than the
10 last one -- about kind of your role and
11 responsibility.

12 A. Okay. I began my career with the Texas
13 Department of Criminal Justice in 1980 as a
14 correctional officer at the Huntsville Unit.

15 In March of 1983, I promoted to the
16 position of sergeant of correctional officers at
17 the -- at that time -- Ramsey III facility.

18 Q. Okay.

19 A. In Brazoria County.

20 In September 1984, I promoted to
21 lieutenant of correctional officers at that same
22 facility.

23 In March of 1986, I promoted to captain
24 of correctional officers at the Clemens Unit, again,
25 in Brazoria County.

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1 In 1989, I promoted to major of
2 correctional officers at the Retrieve Unit there in
3 Angleton, Texas.

4 And in 1990, I was promoted to
5 assistant warden at the Pack 2 Unit.

6 In 1992, I was promoted to senior
7 warden at the Smith Unit in Lamesa, Texas.

8 I served in that capacity until 1994,
9 when I was promoted to a warden's position at the
10 Ramsey I Unit back in Brazoria County.

11 In 1996, again, I was promoted to the
12 position of warden, senior warden, at the
13 Telford Unit, T-e-l-f-o-r-d, Unit in Bowie County,
14 Texas.

15 And in 1999, I was transferred to the
16 Estelle Unit in Walker County as a warden.

17 In 2003, I was promoted to regional
18 director for Region I, which encompassed into the
19 Huntsville area.

20 In 2006, I was promoted to division
21 director of the Manufacturing Logistics Division,
22 there in Huntsville, Texas.

23 And in 2000 -- July of 2009, I was
24 promoted into the director's position of the
25 Correctional Institutions Division and served in that

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1 capacity until my retirement in May of this year,
2 2013.

3 Q. All right. So let's go back to 2003 when I
4 believe you told me that you became the regional
5 director of the region that would include Huntsville?

6 A. Right.

7 Q. Who would be serving in that position today,
8 or has kind of the structural situation changed?

9 A. As far as the named individual?

10 Q. Sure.

11 A. I believe Richard Alford is currently the
12 Region I director.

13 Q. Okay.

14 A. At least he was when I left in May.

15 Q. Walk me through -- each region has its own
16 director?

17 A. Correct. There is six regions across the
18 state of Texas.

19 Q. Okay. So we've met Mr. Eason in this case.
20 Is he a regional director?

21 A. Yes, sir.

22 Q. Currently? Okay. Or -- okay.

23 A. Well, I say currently --

24 Q. He was one of the six --

25 A. I believe since I left, I believe he --

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1 Q. He was promoted?

2 A. He has moved to another position.

3 Q. Okay. So we've got the six regional
4 directors. And as I understand it, and please correct
5 me if I'm wrong, their job is to supervise wardens at
6 individual prisons in those regions?

7 A. Their job is to supervise the unit
8 administration, which would be the warden at each
9 facility within their region, yes, sir.

10 Q. Fair to say that their responsibility is
11 staying on top of issues in their particular region?

12 A. Their responsibility is to ensure that
13 appropriate actions are being taken on their facility,
14 yes, sir.

15 Q. Fair to say that they should be
16 knowledgeable about deaths that are occurring to
17 offenders in their region?

18 A. In all cases that there is a death in their
19 region, they would be involved in that notification
20 process.

21 Q. So if there was an epidemic of heat stroke
22 in a particular region, is it fair to say that the
23 regional director should know about that?

24 A. The regional director should know about any
25 deaths in their region, yes, sir.

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1 The last position that identified the
2 prison and jails, that would be the individual that
3 would be responsible for overseeing all of the other
4 basic activities that occurred on the facilities,
5 reviewing most reports that are generated from the
6 regional office would report directly to that prison
7 and jail deputy director.

8 Q. Okay. Okay. Does each region have three
9 deputy directors?

10 A. No, sir. Those three deputy directors are
11 located in the central office and support all six
12 regional directors. And at that time, it was all 95
13 facilities out in the field.

14 Q. Gotcha.

15 Who were the three deputy directors for
16 the time period, let's say, 2009 through your
17 retirement?

18 A. Okay. Initially, the three deputy directors
19 in -- that reported to me were Oscar Mendoza. He was
20 in management operations. I want to say he assumed
21 that position in 2000 -- October 2009, September or
22 October 2009. I'm not specific on that date.

23 Q. Okay.

24 A. He held that position until fairly recently.
25 Just prior to my retirement, he moved into a --

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1 another position within the agency.

2 Q. Do you know what position he moved into?

3 A. The division director over administrative
4 review and risk management.

5 Q. Okay.

6 A. Support operations was Tommy Prasifka.
7 Tommy held that position the entire time that I was in
8 my position.

9 Q. Okay.

10 A. And then the third individual in prison and
11 jail operations was Bill Stephens. And, again, he
12 held that position shortly after -- again, all of
13 those were selected in September or October of 2009
14 and held their positions as I indicated.

15 Q. And it's my understanding that Mr. Stephens
16 replaced you upon retirement?

17 A. Yes, sir, he did.

18 Q. And Mr. Stephens is in the room listening to
19 this deposition. Correct?

20 A. Yes, he is.

21 Q. Okay. All right. Now, as we go up the
22 regional directors and then the deputy directors, then
23 do we get to your position, sir?

24 A. Yes, sir.

25 Q. And tell me again a little bit about your

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1 A. No, sir.

2 Q. Okay. In fact, you wouldn't even be in that
3 line of implementation or ability to stop that?

4 A. No, sir.

5 Q. We would go Director Livingston, CFO
6 McGinty, Mr. Matt Demny. Fair?

7 A. Again, I don't know who is the final
8 approval for that, but Matt Demny, as the division
9 director, would be involved in that process.

10 Q. Okay. Prior to this year, were you aware
11 that TDCJ was spending hundreds of thousands of
12 dollars on cooling equipment for pigs?

13 A. No, sir.

14 Q. Does that offend you, when they don't spend
15 it on inmates?

16 A. Again, I wouldn't compare my offender
17 population to swine, but again --

18 Q. Why not?

19 A. I can't speak -- I can't speak to what the
20 needs are of the agriculture division.

21 Q. Would you place the needs of your inmate
22 population on at least an equal level to the needs of
23 the swine in the division?

24 A. Again, I wouldn't -- I wouldn't put them in
25 the same priority level. It's obvious that the

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Richard C. Thaler
October 18, 2013

1 offender population is our ultimate responsibility and
2 appropriate care of them surely takes priority.

3 Q. Okay. All right. Is Director Livingston at
4 your regional director meetings?

5 A. No, sir. Not normally, no, sir.

6 Q. Normally not?

7 A. Normally not.

8 Q. Does he get -- how is he made aware of
9 issues in the system that you have identified as
10 needing policies or needing changes?

11 A. Again, there is a -- the major communication
12 and efforts between myself in my role as a division
13 director and Mr. Livingston was face-to-face
14 communication, and myself delivering information to
15 Mr. Livingston on current issues within my division or
16 reviewing, in some cases, particular incidents.

17 Q. Do you ever send him e-mails?

18 A. Not very often. I was right down the
19 hallway from him. So if there was an incident where
20 he happened to be maybe in Austin during the
21 legislative session and I happened to be in Huntsville
22 and there was an incident, I might have sent him an
23 e-mail. But -- but in most cases I either picked up
24 the phone and told him directly or went down with a
25 face-to-face meeting and briefed him on issues.

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1 130 degrees. Would that cause you concern?

2 A. It would surely cause me to make sure that
3 those individuals at that unit were taking -- making
4 all mitigation attempts to address issues to ensure
5 that all of the mitigation steps that we have put in
6 place were put in place, to make sure that those unit
7 administrators were discussing any necessary issues
8 with risk management, with health services, to ensure
9 that all actions that were being taken were sufficient
10 to deal with the issue.

11 Q. Okay. So if you -- those high temperatures,
12 you would say, look, wardens have to review those
13 temperature logs. Correct?

14 A. Yes, sir. I would hope that the wardens
15 were reviewing the temperature logs. Yes, sir.

16 Q. And your expectation would be that the
17 warden would then take appropriate measures when
18 you're dealing with extreme temperatures. Correct?

19 A. Yes, sir.

20 Q. Okay. Are you aware of the chart by the --
21 the weather chart that's in a lot of your training
22 documents?

23 A. I believe it's similar to the one that is in
24 1064, I believe.

25 Q. Exactly. Where it talks about heat stroke

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1 may be possible, or heat stroke might be probable, or
2 heat stroke is imminent?

3 A. Yes, sir.

4 Q. Okay. What does the word "imminent" mean to
5 you?

6 A. Immediate.

7 Q. Okay. That's what it means to me. Would it
8 surprise you that that's not what it means to
9 Warden Pringle?

10 MR. ANASTASIDIS: Objection. Calls for
11 this witness to speculate as to what another person
12 might believe or might not believe.

13 A. Again, imminent, to me, is immediate. I
14 would think that most individuals would interpret it
15 as that.

16 Q. (BY MR. EDWARDS) Okay. It would be
17 dangerous to interpret it any other way. Right?

18 MR. GARCIA: Objection. Speculation.

19 A. Again, that would be my interpretation of it
20 as being immediate.

21 Q. (BY MR. EDWARDS) I appreciate that because
22 I think we can agree that's what the word actually
23 means. But my question -- and let me withdraw that
24 part of it -- but my question is, if you treat the
25 word "imminent" as meaning just possible, and that's

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1 Department of Criminal Justice, at least was it your
2 position, that it required a death before you examined
3 whether or not the extreme heat was posing a danger to
4 inmates?

5 A. No. We address that issue going into it.

6 Q. Of course not. Right?

7 A. We address that issue going into every
8 season.

9 Q. Well, okay. But you had a number of
10 heat-related illnesses before Mr. McCollum died in the
11 summer of 2011, didn't you?

12 A. There were heat-related illnesses, yes, sir.

13 Q. Employee heat-related illnesses and inmate
14 heat-related illnesses. Right?

15 A. There were some, yes, sir.

16 Q. Okay. Does it require a death before you
17 take precautions and change these measures that you
18 allege mitigate the heat?

19 A. No.

20 Q. It certainly shouldn't. Right?

21 A. No, sir.

22 Q. If people are suffering heat exhaustion,
23 complaining of heat, fainting, whatever, you ought to
24 examine that right away. Right?

25 MR. GARCIA: Objection. Compound.

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1 A. And we did.

2 Q. (BY MR. EDWARDS) And you did. Okay. And
3 you did and, to your knowledge, Director Stephens did.
4 Correct?

5 A. Yes, sir.

6 Q. And to your knowledge, Director Eason would
7 have examined that. Right?

8 A. Yes, sir.

9 Q. Okay. And you certainly would hope that
10 Warden Pringle would exam those that occurred at his
11 facility. Right?

12 A. Reviewed the fact -- circumstances, yes,
13 sir.

14 Q. Okay. And certainly your directors meetings
15 you would be updating Regional Director Eason and
16 making sure that he tells his wardens that he's
17 supervising, look, this summer is extremely hot.
18 We've got to take extra precautions. Right?

19 A. Surely -- surely was addressed at every
20 regional directors meeting that we had, the need to
21 take precautions relating to heat-related illnesses.

22 Q. And you recall specifically doing that and
23 addressing that at these regional meetings in the 2011
24 time period before Mr. McCollum died. Right?

25 A. I surely had it on my agenda, so I am sure I

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1 addressed it.

2 Q. Okay. And this is my question. To not
3 address it would have been unacceptable. Correct?

4 A. Well, again, to bring attention to it and
5 take appropriate action is --

6 Q. And I appreciate --

7 A. -- is appropriate.

8 Q. And that's what you did. That's what you're
9 telling this jury you personally did. Correct, sir?

10 A. Right.

11 Q. Okay. Now, my question, though, is a little
12 bit different. You would agree with me that to not do
13 that would be dangerous to the inmate population.
14 Right?

15 MR. GARCIA: Objection. Speculation.

16 A. To not review incidents and make a
17 determination as to anything that could be done to
18 avoid future incidents?

19 Q. (BY MR. EDWARDS) Of course.

20 A. Right.

21 Q. Look, you're at the top of the food chain.
22 You and Director Stephens, Director Eason, you guys
23 are responsible for making sure these policies, even
24 if they're informal e-mails, actually get implemented.
25 Right?

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1 indeed it's a true statement that there is legislative
2 intent for all county jails to be air conditioned,
3 then that was mandated by the legislature, so county
4 jails follow those instructions.

5 Q. (BY MR. EDWARDS) Any other reason you can
6 think of?

7 MS. COOGAN: Objection. Speculation.

8 A. No.

9 Q. (BY MR. EDWARDS) Okay. You don't need
10 this -- this high heat in order to effectively punish
11 the inmates for the crimes they've committed, do you?

12 A. No, sir, not at all.

13 Q. Okay. Is there any penal purpose like
14 specifically for keeping -- there being no air
15 conditioning in the prisons?

16 A. No -- no -- as it relates to not bringing
17 conditioned air into systems as a form of punishment,
18 absolutely not.

19 Q. Okay. Tell me what the EAC system is, sir.

20 A. It's the Emergency Action Center. It's a
21 hub that collects information from different
22 divisional components, different facilities and units,
23 on incidents that have occurred throughout the system.

24 Q. Is it fair to say that the purpose is to
25 inform supervisors about problems at the prison?

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1 A. In some cases it disseminates information
2 about incidents that have occurred. Some are
3 problems, some are just incidents.

4 Q. I understand -- I appreciate that. It would
5 include prisoner injuries?

6 A. To the EAC center, yes, sir. In some cases
7 it would, yes.

8 Q. Including prisoners that die?

9 A. Prisoners that have died in the institution,
10 there would be an EAC report sent to the Emergency
11 Action Center.

12 Q. Prisoners who suffer heat stroke and die,
13 there would be an EAC report. Right?

14 A. There should be an EAC report on any death
15 in our system.

16 Q. Who reviews the reports from the EAC system?
17 If you know?

18 A. Again, depending on the category of the
19 report, most reports are filed -- are forwarded to the
20 EAC center. They're filed there in the Emergency
21 Action Center. If there is an action plan that
22 accompanies that report, then that action plan and a
23 copy of that report would be forwarded to the
24 appropriate, in most cases, deputy director within the
25 division to ensure that the -- any action plan was

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1 implemented.

2 Again, those reports are available for
3 review, but as far as when they come in from the
4 facilities, the EAC department is the depository for
5 that information.

6 Q. With regards to the McCollum case, I guess,
7 would regional -- then Regional Director Eason have
8 seen the EAC reports?

9 A. Yes. That EAC report, when it leaves the
10 facility, funnels through the regional director's
11 office prior to forwarding to the EAC center.

12 Q. And then would it also get to you and
13 Mr. Stephens?

14 A. Not necessarily in all cases. Again, if it
15 required an action plan, then that is something that
16 would surely have gone to the appropriate deputy
17 director, depending on what the circumstances were of
18 the EAC report.

19 Q. Do you review most reports involving deaths?

20 A. Many -- many of the reports I have reviewed,
21 but I can't say that I review every report that
22 involves an offender death.

23 Q. Okay. Did you review the report involving
24 Mr. McCollum?

25 A. I have subsequently reviewed that report. I

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1 can't -- I cannot remember, in 2011, at what point
2 that I personally became aware of it or what documents
3 I reviewed, but I have reviewed it prior to this
4 deposition.

5 Q. Okay. Do you believe -- I mean, I'm trying
6 to drill down on it a little bit. Should you have
7 reviewed it in 2011 when it came in?

8 A. Well, again, there is multiple entities that
9 report to me, particularly as it -- as it relates to
10 an offender's death. So in some cases that report is
11 actually reviewed personally by me, in other cases
12 there are discussions with my appropriate deputy
13 director. Potentially, in these cases, discussion
14 with the Health Services Division director regarding
15 the circumstances surrounding the particular incident.
16 So, again, I can't assure you that in all cases I
17 review every report.

18 Q. But it's important for the people in the
19 hierarchical chain to be reviewing these to discover
20 patterns. Right?

21 A. Well, it's surely important that we discuss
22 the facts concerning the particular incident and
23 determine if there is any modifications to procedures
24 or policies that should take place as we move forward,
25 yes, sir.

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1 medications where the heat affects them?

2 A. Again, I would say that list would be
3 inclusive of those that take medications that would
4 increase their propensity to heat-related illness.
5 But, again, I'm not the subject matter expert in
6 there, so I don't want to tell you anything for
7 definite that I'm not sure of.

8 Q. Okay. What about obesity, is that something
9 that TDCJ teaches people, that people who are obese
10 are vulnerable to extreme heat as well?

11 A. Again, surely they can be. At what level
12 that individual is placed on that list, again, I'm --
13 I cannot tell you.

14 Q. All right. But after the summer of 2011,
15 the policy changed at TDCJ to rely on UTMB to identify
16 these people who were vulnerable to extreme heat and
17 actually place them on a list where your officers
18 would conduct wellness checks on them throughout the
19 day?

20 A. Right. Prior to 2011, we've always relied
21 on UTMB to ensure that the individuals could be
22 appropriately housed on any of our facilities. But
23 subsequent to the incidents in 2011, that additional
24 measure of development of that checklist was
25 developed.

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1 entity and say, I need the supervisor, or I need
2 emergency care. But that individual themselves would
3 have no capabilities of dialing 911.

4 Q. Sure. Let's take my example. Okay. A
5 person, seizure, nonresponsive. We've agreed he needs
6 immediate medical care. Right?

7 A. Right.

8 Q. Okay. In that situation, a correctional
9 officer is there, should they initiate the 911
10 process, or contact their supervisor, wait ten,
11 15 minutes for the supervisor to come and not initiate
12 the 911 process?

13 A. And, again, in the explanation that I gave
14 you, their first contact would be their supervisor as
15 they initiate our emergency incident response process.
16 Okay? That supervisor should immediately go to there.
17 If for some reason there is delay, that correctional
18 officer surely has the opportunity to inform that
19 supervisor by radio, we need 911, this is what I have,
20 and that process could be initiated.

21 Q. Okay. So nothing prevents, at least to your
22 knowledge, a correctional officer from initiating a
23 911 process if people -- if there is a delay in
24 getting people to help him?

25 A. There is no policy out there that prohibits

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1 that from occurring, no, sir.

2 Q. If there was a -- not a policy, but just a
3 practice, a way of doing things of just waiting until
4 your supervisor shows up before initiating the 911
5 process, would you agree with me that that could delay
6 potentially lifesaving care?

7 A. Again, in an emergency situation, I would
8 hope the supervisor would respond immediately. But,
9 indeed, if that was not happening, then -- then surely
10 that would be a situation of concern.

11 Q. Okay. Are you aware of the time delay in
12 this particular case between recognizing Mr. McCollum
13 having seizures and being nonresponsive and contacting
14 911?

15 A. I'm aware of the time, by reviewing the
16 report and discussing it with others, yes, sir.

17 Q. Okay. It's an hour delay. Right?

18 A. Just short of an hour, I believe.
19 50-something minutes, yes, sir.

20 Q. Somewhere between 50 minutes and a little
21 more than an hour, somewhere like that. Right?

22 A. Yes.

23 Q. You would agree that's off the charts
24 unacceptable in this situation. Right?

25 A. Again, in -- in reviewing the facts as they

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1 were there, again, the encouragement and the direction
2 to the field is, when in doubt, seek -- seek treatment
3 for -- for the offender.

4 Q. Sure.

5 A. So in retrospect, not knowing all that the
6 staff was dealing with there, I would surely say that
7 it would have been appropriate to initiate that 911
8 call earlier, yes, sir.

9 Q. Okay. Inappropriate to not initiate that
10 911 call sooner. Right?

11 A. Well, again, looking at the circumstances as
12 I can see them now, surely would have initiated it
13 earlier, yes, sir.

14 Q. Okay. That happened in July of 2011, I
15 think July 22nd, 2011. Is that your understanding as
16 well?

17 A. I believe that was the date of the
18 occurrence, yes, sir.

19 Q. Okay. And you were notified about -- and
20 you received an EAC report and there was an
21 administrative review in which all of this situation
22 was discussed and described. Right?

23 A. Again, I don't know exactly what documents I
24 reviewed. At some point I would have been notified of
25 that, but I cannot recall exactly when that

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1 notification took place.

2 Q. Do you know if these officers have been
3 disciplined for the delay in contacting 911?

4 A. I do not know whether they have been
5 disciplined, no, sir.

6 Q. Should they be?

7 A. Well, again, it's a determination that is
8 made through the review process of the warden and the
9 regional director, and in some cases as they review
10 the administrative review, looking at the officers'
11 actions afterward, they surely -- surely can criticize
12 the fact that there was a delay in the call. I don't
13 know that -- where any level of responsibility lies in
14 that entire process, but there is officers out there
15 that, as you know, make difficult decisions every day
16 dealing with the offender population, and as to
17 whether or not formal disciplinary should have been
18 taken, at what level, again --

19 Q. Well, let's change the question. Should
20 formal retraining have been done?

21 A. I surely believe that retraining, not only
22 for that particular -- those particular staff members,
23 but for staff on that facility to ensure that the
24 correct message was out there to the staff.

25 Q. You don't want this to happen again. Right?

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1 A. That's correct.

2 Q. I mean, Warden Pringle ought to have had
3 those officers in and said, look, guys, in all
4 circumstances initiate 911 when someone is seizing and
5 nonresponsive. Right? Whether he disciplined them or
6 not, he should have had that conversation. Right?

7 MR. GARCIA: Objection. Compound.
8 Speculation.

9 A. Again, as a warden, that's something that
10 surely I would have done.

11 Q. (BY MR. EDWARDS) And if you were that
12 warden, of course you would have done that. Fair?

13 A. Again, as a warden, I surely would have
14 reviewed those circumstances with staff involved.

15 Q. Do you know if Warden Pringle has done that?

16 A. No, sir, I do not.

17 Q. Would you be critical of Warden Pringle if
18 he had not had those conversations with his officers?

19 A. Again, I would -- I would hope that subject
20 matter relating to those incidents and dealing with
21 those incidents was covered with all staff, to include
22 those officers, by Warden Pringle.

23 Q. Okay. Otherwise, nothing changes and you're
24 destined to repeat your failures. Right?

25 A. Surely if there is not additional

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1 instructions given, the same decisions could be made,
2 yes, sir.

3 Q. This -- after this e-mail is sent out, I
4 believe there has been previous testimony that --
5 well, strike that.

6 Are you responsible for sending out
7 Exhibit 50 or is somebody else responsible for it?
8 And I'm talking about that '09 to before you retired
9 time period.

10 A. Yeah. In most cases that would come from my
11 office. In some cases it might have been disseminated
12 from Mr. Stephens' office.

13 Q. Okay. There has been testimony in this case
14 that a circular, a risk management circular was read
15 aloud to officers about recognizing the signs and
16 symptoms of heat stroke and heat exhaustion. Were you
17 aware that that was going on in -- at the
18 Hutchins facility?

19 A. Not -- not directly aware, but heat
20 preparedness training, as I mentioned before, is
21 required to be conducted on each facility, in addition
22 to the training that the correctional staff receive as
23 they go through their pre-service and in-service
24 training.

25 Q. And this training was going on from the time

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEPHEN McCOLLUM, \$
STEPHANIE KINGREY, AND \$
SANDRA McCOLLU, \$
INDIVIDUALLY AND AS \$
HEIRS AT LAW TO THE \$
ESTATE OF LARRY GENE \$
McCOLLUM, \$ CIVIL ACTION NO.
Plaintiffs, \$ 3:12-CV-02037

VS.

BRAD LIVINGSTON, JEFF \$
PRINGLE, RICHARD CLARK, \$
KAREN TATE, SANDREA \$
SANDERS, ROBERT EASON, \$
THE UNIVERSITY OF TEXAS \$
MEDICAL BRANCH AND THE \$
TEXAS DEPARTMENT OF \$
CRIMINAL JUSTICE, \$
Defendants. \$

* * * * *
REPORTER'S CERTIFICATION
ORAL AND VIDEOTAPED DEPOSITION OF
RICHARD C. THALER
VOLUME 1
October 18, 2013

* * * * *
I, BRENDA J. WRIGHT, Certified Shorthand

Reporter in and for the State of Texas, hereby certify
to the following:

That the witness, RICHARD C. THALER, was duly
sworn by the officer and that the transcript of the
oral deposition is a true record of the testimony
given by the witness;

I further certify that pursuant to Federal
Rules of Civil Procedure, Rule 30(e)(1)(A) and (B) as

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1 well as Rule 30(e)(2) that the signature of the
2 deponent:

3 __X__ was requested by the deponent and/or a
4 party before completion of the deposition and is to be
5 returned within 30 days from date of receipt of the
6 transcript. If returned, the attached Changes and
7 Corrections and Signature pages contain any changes
8 and the reasons therefor;

9 _____ was not requested by the deponent and/or a
10 party before the completion of the deposition.

11 That \$_____ is the deposition
12 officer's charges for preparing the original
13 deposition transcript and any copies of exhibits,
14 charged to PLAINTIFFS;

15 That pursuant to information given to the
16 deposition officer at the time said testimony as
17 taken, the following includes all parties of record:

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18
19 I further certify that I am neither attorney
20 nor counsel for nor related to nor employed by any of
21 the parties to the action in which this deposition is
22 taken;

23 Further, I am not a relative nor an employee of
24 any attorney of record in this cause, nor am I
25 financially or otherwise interested in the outcome of

WRIGHT WATSON & ASSOCIATES

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Stephen McCollum, et al. v.
Brad Livingston, et al.

Richard C. Thaler
October 18, 2013

1 the action.

2 Certified to by me this 29TH day of OCTOBER,
3 2013.



4 BREND A J. WRIGHT, Texas CSR No. 1780
5 Expiration Date: 12-31-14
6 WRIGHT WATSON & ASSOCIATES
7 Firm Registration No. 225
8 Expiration Date: 12-31-13
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